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Bill 166

Government Bill

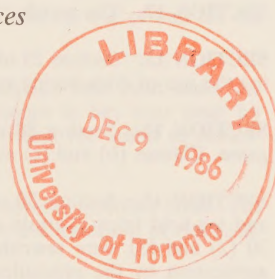
2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 166

An Act to amend the Game and Fish Act

The Hon. V. Kerrio
Minister of Natural Resources



1st Reading December 2nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Amendments are being made to the interpretation section. These are either housekeeping or complementary to the other amendments being proposed.

SECTION 2. The section of the Act that sets out where the Act does not apply are being clarified. The new subsection 2 (4) of the Act is a new concept.

SECTION 3. The section setting out the purpose of the Act is being expanded.

SECTION 4. Subsection 8 (1) of the Act allows an officer to search vehicles, camps, boxes, etc., if there is reasonable grounds to believe that illegally taken fish or game are contained therein. The addition extends this power to a search for equipment, etc., that may have been used in the illegal taking.

SECTION 5. The section, which provides for an exemption from mandatory investigation or prosecution, is obsolete.

SECTION 6. Section 14 of the Act authorizes an officer to stop vehicles and vessels for certain specified purposes. The added subsections place a duty on the operator of a vehicle or vessel to stop when so requested.

SECTION 7. The new section 15a of the Act authorizes inspections of records in business premises.

SECTION 8. The rewritten subsection clarifies transfer of ownership of seized perishable goods.

SECTION 9. The new section 16a of the Act permits the seizing and disposition of undesirable species.

SECTION 10. The definition of "railway lands" is being clarified and two other terms used in section 18 of the Act are being defined for greater clarity.

SECTION 11. The new section 19a is self-explanatory.

SECTION 12. The words "Except as provided in the regulations" are being added.

SECTION 13. Section 23 of the Act is rewritten with subsection 23 (3) aimed at regulating the use of dogs during raccoon hunts being the new concept.

SECTION 14. Section 28 of the Act currently prohibits the use of a ferret in hunting game. Clauses (b) and (c) are new.

SECTION 15. Section 30 of the Act currently prohibits the use of body-gripping traps and leg-hold traps. Certain exceptions are made to this in subsection 30 (3). Subsections 30 (2) and (3) were rewritten to accommodate the definition of body-gripping trap and application by the regulations regarding the prohibiting of trappers and farmers use of traps in designated areas of high population density.

SECTION 16. Section 32 of the Act currently provides the releasing of any bird or animal imported into Ontario unless the Minister consents to the release. The section is rewritten to allow the Minister to give the consent subject to conditions or limitations.

SECTION 17. Section 33 of the Act currently states that game legally taken outside Ontario may be brought into or held in Ontario. It is rewritten to clarify that the permission applies only to game killed outside Ontario. A licence is required for certain activities relating to live game. Subsection 33 (2) is new.

SECTION 18. Section 35 of the Act currently makes it an offence to knowingly make a false statement in applications, reports, etc. The word "knowingly" is being deleted.

SECTION 19. The effect of section 36 of the Act is to require a licence to hunt or trap. The section is rewritten to allow for exceptions to be provided by regulation.

SECTION 20. Subsection 37 (3) of the Act sets out certain licences that may be issued. Two additional licences related to fishing are added. Subsections 37 (6) and (8) are rewritten to recognize the addition of the fishing licences. Subsection 37 (6a) is new. Subsection 37 (8) also will now require clothing, of a colour to be prescribed, to be worn. Subsection 37 (7a) is new.

SECTION 21. Section 39 of the Act currently allows an issuer to refuse to issue a licence. The new subsection 39 (2a) allows for the refusal to issue a commercial fishing licence where the applicant is in default of royalty payments. The new subsections 39 (4) and (5) allow a commercial fisherman to appeal the conditions placed on his or her licence by an issuer.

SECTION 22. Section 41 of the Act deals with appeals when there are refusals to issue licences. The subsections are rewritten to provide for appeals when licences are issued subject to conditions. This is complementary to the new subsection 39 (4) of the Act as set out in section 21 of the Bill.

SECTION 23. Section 43 of the Act deals with persons issuing licences and collecting fees therefor. The two subsections are rewritten to include reference to persons issuing permits.

SECTION 24. Section 44 of the Act deals with situations where municipalities pass by-laws regulating hunting. The subsection added permits the Minister to order the repeal of a by-law regulating hunting of pheasants, rabbits and foxes.

SECTION 25. Section 46 of the Act makes it an offence to knowingly possess illegally hunted game. The section is rewritten so that the reference to "knowingly" is deleted and "game" is changed to "animal or bird".

SECTION 26. Subsection 47 (1) of the Act restricts the hunting of certain specified game animals. Polar bears are deleted from the specified list to permit them to be dealt with as fur-bearers. Subsection 47 (2) limits a hunter to one licence to hunt certain specified animals. Black bear is added to the specified list.

SECTION 27. A section dealing with the destruction of dens and the use of bait for the hunting of black bears is added.

SECTION 28. The section repealed provides that a person may sell bear meat under the authority of a licence and that a person does not require a licence to buy bear meat for his or her own use. The sale of meat of black bear will fall within the ambit of subsection 51 (1) of the Act.

SECTION 29. Section 54 of the Act permits the hunting of certain specified birds. The effect of the amendment is to allow the list to be expanded by a declaration of the Lieutenant Governor in Council.

SECTION 30. The rewritten section clarifies the birds and the time the birds may be hunted and provides that some may not be hunted at any time.

SECTION 31. The repealed section 57 of the Act prohibits hunting pheasant with a rifle.

SECTION 32. Section 58 of the Act currently prohibits the propagation or sale of game birds without a licence. The ambit of the section is being expanded.

SECTION 33.—Subsection 1. Subsection 62 (1) of the Act states that a licence may fix the number of each species of fur-bearing animals that may be taken. The change expands this to allow the fixing of the number of black bear that may be taken.

Subsections 2 and 3. Currently subsections 62 (6) and (7) of the Act allow certain hunting privileges to trappers and farmers. Certain animals, however, are exempt. Wild turkeys are being added.

SECTION 34. The new section 62a is self-explanatory.

SECTION 35. Section 64 of the Act dealing with the possession of unsealed or unmarked pelts is rewritten to simplify and clarify its intent.

SECTION 36. Section 66 of the Act dealing with the requirements to seal or mark pelts is rewritten so that it is more precise.

SECTION 37. The new section 67a is self-explanatory.

SECTION 38. Section 72 of the Act deals with traffic in fish. The section is rewritten to reflect that there are various types of licences being issued.

SECTION 39. Section 74 of the Act regulates the possession of various types of fishing equipment. The section, as rewritten, moves some of the statutory provisions to the regulations.

SECTION 40. Section 76 of the Act restricts the hunting or possession of reptiles and amphibians. The reference to possession is being deleted. Subsection 76 (2) of the Act is new.

SECTION 41. Repealed section 79 of the Act requires that dogs used for hunting big game need to be licensed.

SECTION 42. Section 80 of the Act deals with dogs running at large in hunting areas. Subsection 80 (2) is rewritten to broaden its scope. Subsections 80 (3) and (4) are new.

SECTION 43. Section 82 of the Act deals with keeping live game in captivity. Subsections 82 (1) and (2) have been rewritten to remove the specific reference to wolf. Subsection 82 (3) has been rewritten with clause (c) containing the new elements. Subsection 82 (4) is new.

SECTION 44. Section 84 of the Act regulates the shipment of receptacles containing game or fish.

SECTION 45. Subsection 89 (1) of the Act provides for the cancellation of a licence where the holder is convicted of an offence. The cancellation of a licence also applies to a licence held at the time of conviction. The subsection is rewritten to provide that a licence holder may have the licence cancelled if the holder's agent is convicted. Subsections 89 (1a), (1b) and (1c) are new.

SECTION 46. The new subsection 91 (2) of the Act introduces a penalty specifically for holders of commercial licences.

SECTION 47. Section 92 of the Act sets out the matters with respect to which the Lieutenant Governor in Council may make regulations. The changes are complementary to the changes being made in this Bill.

SECTION 48. Section 93 of the Act sets out the matters with respect to which the Minister may make regulations.

SECTION 49. Self-explanatory.

Bill 166

1986

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:

1a. “bird” includes the eggs thereof.

(2) Paragraphs 3 and 6 of the said section 1 are repealed and the following substituted therefor:

3. “body-gripping trap” means a device designed to capture an animal, other than a mouse or rat, by seizing and holding the animal by its body or any part thereof and includes a spring trap, steel trap, gin, deadfall, snare and leg-hold trap;

.

4a. “culture”, when used with respect to fish, means the husbandry of fish including any activity that promotes or causes the growth or reproduction of fish but does not include the production of fish for the aquarium trade;

.

6. “domestic animals and domestic birds” includes non-native species in the possession or control of any person and fur-bearing animal kept on a fur farm, as defined in the *Fur Farms Act*, but does not include,

R.S.O. 1980,
c. 181

i. species prescribed by the regulations as not domestic animals or birds,

ii. non-native subspecies, whether or not in the wild state, of native species, or

iii. non-native species present in the wild state;

6a. "encased", when referred to a fire-arm, means that,

i. the fire-arm is enclosed on all six sides in a case fastened in a manner that prevents the fire-arm from being loaded within the case, or

ii. the fire-arm is in a trunk compartment of a vehicle that is not open to the passenger's compartment of the vehicle.

(3) Paragraph 9 of the said section 1 is repealed and the following substituted therefor:

9. "fire-arm" includes an air or pellet gun, a bow and a cross-bow;

9a. "fish" includes,

i. parts of fish,

ii. shellfish, crustaceans and the parts thereof, and

iii. the eggs, spawn, larvae, spat and juvenile stages of fish, shellfish and crustaceans.

(4) Paragraph 10 of the said section 1 is amended by striking out "propagated" in the eighth line and inserting in lieu thereof "cultured".

(5) Paragraphs 14, 18, 19 and 35 of the said section 1 are repealed and the following substituted therefor:

14. "game bird" means any bird referred to in section 54, accipiter, buteo, eagle, falcon, harrier, osprey, owl, vulture and any other bird that may not be taken at any time under this Act, any bird that the Lieutenant Governor in Council declares to be a game bird or any bird protected by the *Migratory Birds Convention Act* (Canada) and includes any part of such bird;

19. "licence" means an instrument in a prescribed form or such other document, coupon, seal, tag or record prescribed by the regulations to be a licence;

.

24a. "Ontario waters" means any natural or man-made body of water in Ontario;

.

34a. "sport fishing" means the taking of fish for non-commercial purposes by means of hook with line, hook with line and rod, spear, dip-net, bait fish trap, seine net or bow and cross-bow;

35. "trap" means a body-gripping trap, box, cage, spring trap or net used to capture an animal or bird, and "trapping" has a corresponding meaning.

2. Section 2 of the said Act is repealed and the following substituted therefor:

APPLICATION

2.—(1) This Act, except where it specifically provides otherwise, does not apply, Application of Act

(a) to domestic animals, other than dogs, domestic birds or fur-bearing animals kept on a fur farm as defined in the *Fur Farms Act*; R.S.O. 1980, c. 181

(b) to a person taking or destroying, on his or her land, an animal or bird, other than a caribou, deer, elk or moose or an animal or bird protected under the *Endangered Species Act*, by means that do not cause unnecessary suffering where he or she finds the animal or bird damaging or destroying his or her property or, on reasonable grounds, believes the animal or bird is about to damage or destroy his or her property; or R.S.O. 1980, c. 138

(c) to a person damaging or destroying a beaver dam in defence or preservation of his or her property.

(2) Clause (1) (b) does not operate to exempt any person from registering or reporting game taken where required to do so under a regulation made under paragraph 53 of section 92. Idem

Limitation
on protection
of property

(3) The exemption provided under clause (1) (b) applies only to those acts necessary to protect property and to the extent that they assist in the protection of the property.

Undesirable
species

(4) This Act applies to such domestic animals and domestic birds prescribed by the regulations as an undesirable species.

Application
R.S.O. 1980,
c. 181

(5) This Act applies to fur-bearing animals kept on a fur farm as defined in the *Fur Farms Act*, in respect of offences against sections 65, 67 and 69.

Idem

(6) Notwithstanding subsection (1), this Act applies to domestic animals and to persons referred to in clause (1) (b) in respect of the restrictions in section 30 on the use of body-gripping traps.

3. Section 3 of the said Act is amended by inserting after “Ontario” in the third line “for the social and economic benefit of the Province of Ontario”.

4. Subsection 8 (1) of the said Act is amended by adding at the end thereof “or if any of them contains any implement, appliance, material, container, goods or equipment that has been used in connection with the commission of an offence against this Act or the regulations”.

5. Section 12 of the said Act is repealed.

6. Section 14 of the said Act is amended by adding thereto the following subsections:

Duty of
operator
to stop

(2) Every operator of a vehicle or vessel shall stop the vehicle or vessel when requested to do so by an officer.

Signal by
officer

(3) Where an officer in the proximity of a vehicle or vessel,

(a) activates a lamp producing intermittent flashes of red light; or

(b) gives a hand signal to the operator of a vehicle or vessel,

the activation or the signal shall be deemed to be a request to stop for the purpose of subsection (2).

7. The said Act is amended by adding thereto the following section:

Inspections

15a.—(1) An officer may, for the purpose of checking for compliance with this Act and the regulations, enter in or upon

any land, premises, vessel or vehicle that is used for a business relating to animals, birds or fish or from which licences or permits are issued at any reasonable time, without a warrant, to carry out an inspection or audit of any animal, bird, fish, equipment, books, records or other documents pertaining to the business.

(2) No person shall refuse an officer acting under subsection (1) entry to any land, premises, vessel or vehicle or access to any animal, bird, fish, equipment, books, records or other documents that the officer is entitled, under subsection (1), to enter or inspect or audit, as the case may be. Idem

8.—(1) Subsection 16 (1) of the said Act is amended by inserting after “goods” in the third line “licence”.

(2) Clause 16 (1) (a) of the said Act is amended by inserting after “goods” in the second line “licence”.

(3) Subsection 16 (4) of the said Act is repealed and the following substituted therefor:

(4) Where, in the opinion of the person having custody of any game or fish seized under subsection (1), the game or fish will rot, spoil or otherwise perish, the game or fish is forfeited to the Crown in right of Ontario as represented by the Minister and the person having the custody may dispose of the game or fish as the Minister directs. Disposition of seized perishable property

9. The said Act is further amended by adding thereto the following section:

16a.—(1) An officer may seize any domestic animal or domestic bird that has been prescribed by the regulations as an undesirable species and the possession of which has been prohibited by the regulations. Seizing undesirable species

(2) Any domestic animal or domestic bird seized under subsection (1) is forfeited to the Crown in right of Ontario as represented by the Minister and may be disposed of as the Minister directs. Disposition of undesirable species

(3) The Minister may pay the owner of any animal or bird forfeited under subsection (2) the fair market value thereof if the animal or bird was lawfully brought into Ontario before it was declared an undesirable species. Compensation

10. Subsection 18 (11) of the said Act is repealed and the following substituted therefor:

Definitions

(11) In this section,

R.S.O. 1980,
c. 511

“oral or written notice not to hunt or fish” includes a notice referred to in clause 5 (1) (b) of the *Trespass to Property Act*;

“owner” includes the Minister and officials of the Ministry;

“railway lands” includes all lands set apart under any Act in aid of a railway or of works in connection therewith or of works to be established, maintained or carried on by a railway.

11. The said Act is further amended by adding thereto the following section:

Hunting
while
impaired

19a. No person who is impaired by alcohol or a drug shall use a fire-arm while hunting or trapping.

12. Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

Night
hunting

(2) Except as provided in the regulations, no person shall hunt any animal or bird during the period between one-half hour after sunset and one-half hour before sunrise.

13. Section 23 of the said Act is repealed and the following substituted therefor:

Exception,
raccoon
hunting

23.—(1) Subject to section 21 and notwithstanding section 22, the holder of a licence to hunt raccoon at night may possess or use a fire-arm of a calibre or type prescribed in the regulations and a light for the purpose of hunting raccoon during the open season therefor if accompanied by a dog.

Idem

(2) A person hunting raccoon at night pursuant to subsection (1) shall comply with the conditions prescribed by the regulations.

Use of light
restricted

(3) No person hunting under subsection (1) shall use a light that is attached to a vehicle or vessel or is shone from or in a vehicle or vessel.

14. Section 28 of the said Act is repealed and the following substituted therefor:

Restrictions
in hunting

28. Except as provided in the regulations, no person shall,

(a) use a ferret in hunting game;

- (b) hunt wild turkey by the use or with the aid of recorded calls; or
- (c) use bait in the hunting of wild turkeys.

15. Subsections 30 (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

(2) No person shall trap or attempt to trap any animal by means of a body-gripping trap. Prohibition

(3) Subsection (2) does not apply, Exceptions

(a) to any part of Ontario designated by the regulations as a part of Ontario to which the prohibition set out in subsection (2) does not apply; or

(b) except as provided by the regulations,

(i) to a person who holds a licence to hunt or trap fur-bearing animals,

(ii) to a farmer who uses a body-gripping trap on his or her own lands in defence or preservation of his or her property or in circumstances referred to in subsection 62 (7), or

(iii) to a person who uses a body-gripping trap designated by the regulations as a humane trap.

16. Subsection 32 (1) of the said Act is repealed and the following substituted therefor:

(1) Except with the written authority of the Minister and subject to such conditions and limitations as the Minister imposes, no person shall release any animal or bird imported into Ontario or propagated from stock imported into Ontario. Release of
imported
stock

17. Section 33 of the said Act is repealed and the following substituted therefor:

33.—(1) Except as provided in section 65, nothing in this Act prohibits the bringing into or possession in Ontario of game lawfully killed outside of Ontario. Importing
game

(2) No person shall possess or import into Ontario any animal, bird or fish that was captured, taken, killed, possessed or exported in contravention of the laws of the place where the animal, bird or fish was captured, taken, killed or possessed. Idem

18. Section 35 of the said Act is amended by striking out “knowingly” in the first line.

19. Section 36 of the said Act is repealed and the following substituted therefor:

Licences
required

36. Except as provided in the regulations, no person shall hunt or trap or attempt to trap animals or birds unless the person is the holder of a licence to hunt or trap.

20.—(1) Clause 37 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) a sport fishing licence.

(2) Subsection 37 (6) of the said Act is repealed and the following substituted therefor:

Licence to
be carried

(6) Except as provided in the regulations, no holder of a licence shall fish, hunt or trap unless at that time the holder has the appropriate licence on his or her person.

Surrender
of invalid
licence

(6a) No person shall refuse to surrender a licence,

(a) that was issued in contravention of this Act, the regulations or the manual of licence-issuing instructions;

(b) issued as a result of a licence described in clause (a); or

(c) that has been cancelled,

to an officer on the request of the officer.

(3) Section 37 of the said Act is amended by adding thereto the following subsection:

Possession
of cancelled,
etc., licence
prohibited

(7a) No person shall display or cause or permit to be displayed or have in his or her possession a cancelled, revoked, fictitious or fraudulently obtained or altered licence or permit.

(4) Subsection 37 (8) of the said Act is repealed and the following substituted therefor:

Wearing
badge and
clothing of
a specified
colour

(8) The holder of a licence of a class designated in the regulations shall, while hunting in such parts of Ontario as are prescribed in the regulations,

- (a) wear in a conspicuous place on his or her person a badge furnished by the Ministry clearly showing the number of the licence; or
- (b) wear clothing of such colour and in such a manner and quantity as is prescribed in the regulations.

21. Section 39 of the said Act is amended by adding thereto the following subsections:

(2a) An issuer of licences may refuse to issue a commercial fishing licence if the applicant therefor is in default of payment of levies or royalties for fish landed by the applicant under a commercial fishing licence. Idem

(4) Where an issuer of licences issues a commercial fishing licence subject to conditions that the licensee does not agree to in writing, the issuer shall serve a notice on the licensee. Commercial fishing licence

(5) A licensee to whom subsection (4) applies may carry on the activities permitted by the licence without prejudicing his or her right to a hearing by the Board. Licensee may carry on activities notwithstanding objects

22. Subsections 41 (3) and (4) of the said Act are repealed and the following substituted therefor:

(3) The report of the Board shall contain a summary of the facts presented at the hearing and its opinion on the merits of the issuing or cancellation of the licence or the conditions imposed, as the case may be, in light of the facts and in view of the purpose of this Act, together with its reasons for its opinion. Report

(4) The Minister, after receiving and considering the report of the Board, may direct or refuse to direct the issuance or reissuance of the licence, with or without conditions, or may carry out or refrain from carrying out his or her proposal to cancel the licence, as the case may be. Powers of Minister

23. Subsections 43 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) No person shall issue a licence or permit or collect a fee in respect thereof unless authorized by the Minister. Issuing licences and permits

(2) The Minister may authorize any person to issue licences or permits and such issuers shall have the powers and duties Idem

set out in the manual of licence-issuing instructions authorized by the Minister.

24. Section 44 of the said Act is amended by adding thereto the following subsection:

Repeal of
by-law

(6) The Minister may order the repeal of any by-law or any part thereof pertaining to the hunting of pheasants, rabbits and foxes by notice sent by registered mail to the clerk of the municipality and the by-law or part thereof shall be deemed to be repealed on the thirtieth day after the notice is sent.

25. Section 46 of the said Act is repealed and the following substituted therefor:

Possession
of animals
or birds

46. No person shall possess any animal or bird hunted in contravention of this Act or the regulations.

26.—(1) Subsection 47 (1) of the said Act is amended by striking out “polar bear” in the fourth line.

(2) Subsection 47 (2) of the said Act is amended by inserting after “hunt” in the second line “black bear”.

27. The said Act is further amended by adding thereto the following section:

Dens of
black bear

48a.—(1) Except with the written authority of the Minister, no person shall molest, damage or destroy a den of a black bear.

Bait

(2) Except as provided in the regulations, no person shall hunt black bear on Crown land where bait has been placed.

Idem

(3) Except with the permission of the person setting the bait, no person shall hunt black bear attracted to a bait not set by that person.

28. Section 53 of the said Act is repealed.

29. Section 54 of the said Act is amended by striking out “bob-white quail or wild turkey” in the sixth line and inserting in lieu thereof “bob-white quail, wild turkey or any other bird that the Lieutenant Governor in Council declares to be a game bird”.

30. Section 55 of the said Act is repealed and the following substituted therefor:

55. No person shall hunt any bird referred to in section 54 during the closed season or any other bird at any time, except, Hunting
birds

- (a) crows, cowbirds, red-winged blackbirds, starlings, grackles and house-sparrows; or
- (b) birds, other than pheasants or Hungarian partridge, released under section 32.

31. Section 57 of the said Act is repealed.

32. Section 58 of the said Act is repealed and the following substituted therefor:

58. Except under the authority of a licence and subject to the regulations, no person, Restriction
of sale, etc.,
of game
birds

- (a) shall sell or barter, offer for sale or barter or be involved in the sale or barter of a game bird or have a game bird for sale;
- (b) shall purchase an accipiter, buteo, eagle, falcon, harrier, osprey, owl or vulture; or
- (c) shall propagate a game bird or have a game bird for propagation.

33.—(1) Clause 62 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) fix the number of each species of fur-bearing animal or black bear that may be taken thereunder; and

(2) Subsection 62 (6) of the said Act is amended by inserting after “deer” in the sixth line “wild turkey”.

(3) Subsection 62 (7) of the said Act is amended by inserting after “deer” in the fourth line “wild turkey”.

34. The said Act is further amended by adding thereto the following section:

62a. Where a person has taken or killed any fur-bearing animal in defence or preservation of his or her property, that person shall report that fact to the Minister as prescribed in the regulations and shall not offer the pelt of the fur-bearing animal for sale or barter except under a licence and sealed in accordance with subsection 66 (1). Animals
taken in
preservation
of property

35. Section 64 of the said Act is repealed and the following substituted therefor:

Possession of
fur-bearing
animals in
closed season

64. Except as provided in the regulations, no person shall, during the closed season, have in his or her possession directly or in that of any other person on his or her behalf any unsealed or unmarked fur-bearing animal or its unsealed or unmarked pelts killed in Ontario or outside Ontario.

36. Section 66 of the said Act is repealed and the following substituted therefor:

Requirement
for seal or
mark

66.—(1) No person shall,

- (a) sell or barter, offer for sale or barter or be involved in the sale, purchase or barter;
- (b) send or have sent to a tanner or taxidermist to be tanned, plucked or treated in any way; or
- (c) export from Ontario,

a fur-bearing animal or the pelt of a fur-bearing animal, except muskrat, taken or killed in Ontario that has not been sealed or marked by a duly authorized person.

Offence

(2) Except as provided in the regulations, no person licensed for an act referred to in clause 65 (1) (a), (b) or (c) shall have unsealed or unmarked pelt of any fur-bearing animal, other than muskrat, taken or killed in Ontario in his or her possession.

Idem

(3) No person shall present or permit to be presented for sealing or marking the pelt of any fur-bearing animal required under subsection (1) to be sealed that was not lawfully taken by him or her.

Idem

(4) No person shall be party to having or attempting to have sealed or marked the pelt of any fur-bearing animal that was not taken under the authority of the licence that is presented with the pelt or otherwise lawfully taken.

Idem

(5) No person in possession of a pelt of a fur-bearing animal that is imported into Ontario shall remove the seal or marking that was required to be affixed to the pelt by the jurisdiction from which the pelt was exported.

37. The said Act is further amended by adding thereto the following section:

67a.—(1) Except with the written authority of the Minister and subject to such conditions as the Minister may impose, no person shall propagate a fur-bearing animal or possess a fur-bearing animal for propagation.

Propagation
of fur-bearing
animals

(2) Subsection (1) does not apply to a person who propagates a fur-bearing animal or has a fur-bearing animal for propagation under the *Fur Farms Act*.

Exception

R.S.O. 1980,
c. 181

38. Section 72 of the said Act is repealed and the following substituted therefor:

72.—(1) Except as provided in the regulations, no person shall sell or barter, offer for sale or barter, purchase or be involved in the sale, purchase or barter of fish taken from Ontario waters in any manner unless that person is the holder of,

No traffic
of fish

- (a) a commercial fishing licence;
- (b) a commercial bait fish licence;
- (c) a bait fish dealer's licence;
- (d) a licence to preserve bait fish;
- (e) a licence to culture and sell fish;
- (f) a licence to own or operate a fishing preserve;
- (g) a licence prescribed in the regulations for the sale of fish; or
- (h) a licence prescribed in the regulations for the purchase of fish.

(2) No holder of a licence mentioned in subsection (1) shall sell or barter, offer to sell or barter or be involved in the sale or barter of fish taken from Ontario waters except the species of fish authorized for sale in the licence and subject to the conditions prescribed in the regulations.

Sale of
species
restricted

(3) No person shall buy, sell, barter or offer to buy, sell or barter or be involved in the purchase, sale or barter of or possess fish taken from Ontario waters during the closed season for that fish.

Idem

(4) Subsection (3) does not apply to,

Idem

- (a) the holder of a licence to culture and sell fish; or

(b) the holder of a fishing preserve licence,

who is dealing with fish taken in accordance with the licence.

Restriction
on
fish culture

(5) Except as provided in the regulations, no person shall culture fish.

Species
permitted to
be cultured
and sold

(6) Every licence to culture and sell fish is limited to such species of fish from amongst American eel, Arctic char, Atlantic salmon, brook trout, brown trout, bullhead catfish, channel catfish, chinook salmon, coho salmon, pink salmon, common carp, lake sturgeon, lake trout, lake whitefish, large-mouth bass, rainbow trout, smallmouth bass, yellow perch, yellow pickerel (walleye), suckers (*Catostomidae*) or minnows (*Cyprinidae*), except minnows that are goldfish (*Carassius auratus*), as set out in the licence.

For human
consumption
only

(7) No person shall sell, purchase or barter or offer to sell, purchase or barter, cultured American eel, Arctic char, Atlantic salmon, chinook salmon, coho salmon, common carp, pink salmon or yellow perch except for the purpose of human consumption.

39. Section 74 of the said Act is repealed and the following substituted therefor:

Fish nets,
possession

74. Except as provided in the regulations, no person shall possess a gill net, hoop net, pound net, seine net, trap net or trawl net or hook lines.

40.—(1) Section 76 of the said Act is amended by striking out “or possess” in the fourth line.

(2) The said section 76 is further amended by adding thereto the following subsection:

Idem

(2) Notwithstanding subsection (1) and until the requirement for a licence is prescribed by the regulations, no licence is required for hunting or attempting to hunt amphibian or reptile for the hunter's own use in accordance with the conditions prescribed in the regulations.

41. Section 79 of the said Act is repealed.

42. Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Use of dogs
in hunting
game

(2) No person shall use or be accompanied by a dog while hunting game prescribed in the regulations in a part of Ontario that is designated in the regulations.

(3) Any dog found running at large in a designated part of Ontario referred to in subsection (2) may be killed on sight by an officer without the officer incurring any liability or penalty therefor. Dog at large may be killed

(4) Subsection (2) does not apply where the dog is used, in accordance with the regulations, for retrieving or tracking wounded game. Exception

43. Section 82 of the said Act is repealed and the following substituted therefor:

82.—(1) No person shall possess live game except, Possession of live game

(a) under the authority of a licence and on such conditions as are prescribed in the regulations; or

(b) pursuant to an appointment under subsection (4).

(2) Live game possessed contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized and, upon conviction of the person in possession or control thereof, becomes the property of the Crown in right of Ontario and may be disposed of by the Minister. Seizure of live game, cages, etc.

(3) This section does not apply where live game is possessed, Application of section

(a) in a zoo operated by a municipality;

(b) for scientific or educational purposes in an institution that is principally funded by a government in Canada; or

(c) where the live game,

(i) is transported or shipped within Ontario, or

(ii) is held in quarantine in Ontario,

in accordance with the regulations.

(4) The Minister may appoint in writing custodians who may have in their possession, for the purpose of caring, injured, sick or immature game subject to such conditions as the Minister may impose. Custodians

44. Section 84 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply to a shipment or transportation of fish done in accordance with conditions prescribed in the regulations.

45. Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

Cancellation of licence

R.S.O. 1980,
c. 167

R.S.C. 1970,
c. F-14

(1) Upon the conviction of a holder of a licence or an agent, as shown on the licence, of the holder of an offence against this Act or the regulations, the *Fish Inspection Act*, the *Fisheries Act* (Canada) or the Ontario Fishery Regulations, the licence held at the time of conviction, if it is related to the offence, is thereupon cancelled without further action or notice.

Exception

(1a) Subsection (1) does not apply to a licence to take fish by means of sport fishing or a licence to hunt except where it is a licence to hunt or trap fur-bearing animals.

Revival of licence

(1b) The Minister may revive any licence cancelled by the operation of subsection (1) upon such conditions as the Minister considers proper.

New application prohibited

(1c) No person whose licence has been cancelled under subsection (1) and not revived shall apply for or obtain a licence to permit the doing of something related to the offence for which the person was convicted.

46. Section 91 of the said Act is amended by adding thereto the following subsection:

Penalty—commercial game or fish

(2) Every person who is convicted of an offence under this Act pertaining to the commercialization of game or fish is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day or to both.

47.—(1) Section 92 of the said Act is amended by adding thereto the following paragraphs:

1a. exempting classes of persons from the requirement of a licence under this Act and the Ontario Fishery Regulations;

.

3a. prescribing the number of dogs and the conditions upon which a person may be accompanied by dogs while hunting raccoon at night.

(2) Paragraph 8 of the said section 92 is repealed and the following substituted therefor:

8. prescribing the fee to enter upon lands owned by the Crown that are used for the purpose of propagating or retaining game or culturing or retaining fish;

.

12a. declaring birds to be game birds;

- 12b. providing for the exemption from subsections 22 (2), 37 (6), 47 (2), 66 (2) and 72 (1), section 74, subsection 82 (2) and clause 82 (3) (c) and prescribing the conditions therefor.

(3) Paragraph 23 of the said section 92 is amended by striking out “polar bear” in the second line.

(4) The said section 92 is further amended by adding thereto the following paragraph:

- 23a. defining “bait” and prescribing the conditions and designating areas in which bait may be used for hunting of black bear.

(5) Paragraphs 24, 25, 38, 39 and 44 of the said section 92 are repealed and the following substituted therefor:

24. prescribing the open seasons during which and the conditions upon which ruffed grouse, spruce grouse, Hungarian partridge, pheasant, sharp-tailed grouse, greater prairie-chicken, ptarmigan, bob-white quail, wild turkey and other bird declared pursuant to paragraph 12a may be hunted;
25. prescribing the species of game that may be hunted by a person who is accompanied by dogs, the conditions upon which dogs may be used for hunting game and the number of dogs, providing for identification of the owners of the dogs and designating any parts of Ontario in which no person shall use or be accompanied by a dog while hunting game;
- 25a. prescribing the conditions under which a person may use dogs for the purpose of retrieving or tracking of wounded game;

.

38. regulating, restricting or prohibiting the possession or use of traps, including,
- i. designating parts of Ontario in which the prohibition set out in subsection 30 (2) does not apply,
 - ii. designating parts of Ontario in which the prohibition set out in subsection 30 (2) applies to any or all of the classes of persons referred to in subclauses 30 (3) (b) (i), (ii) and (iii),
 - iii. designating body-gripping traps as humane traps for the purposes of subclause 30 (3) (b) (iii);
39. regulating, restricting or prohibiting the possession or use of fire-arms, the characteristics of fire-arms, ammunition or projectiles for the purpose of hunting;
- 39a. prescribing the conditions upon which the Minister may authorize a person, who is incapable because of physical or mental impairment of meeting the requirements of this Act or the regulations governing the issuance of a licence to hunt or trap without carrying a fire-arm;
-
- 42a. prescribing the colour of and the amount of colour and the manner in which clothing shall be worn while hunting;
-
44. establishing a system for the calculation of payment of levies or royalties payable in respect of fish or under section 69 and excepting any fish or fur-bearing animal from the application thereof;
- 44a. prescribing the conditions under which a person may ship or transport fish for the purpose of subsection 84 (2);
- 44b. for the purpose of subsection 2 (3) and section 16a, declaring species of domestic animals and domestic birds, including the eggs thereof, as undesirable species and regulating, restricting or prohibiting their possession;

44c. declaring animals and birds of species not usually occurring in Ontario in the wild to be not domestic animals or birds;

44d. prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by
– the regulations.

48. Subsection 93 (1) of the said Act is amended by adding thereto the following paragraph:

7. prescribing the rates and time of payment of the levies or royalties payable in respect of fish or under section 69 and excepting any fish or fur-bearing animal therefrom.

49. The said Act is further amended by adding thereto the following section:

95. Notwithstanding subsection 76 (1) of the *Provincial Offences Act*, proceedings to enforce any provision of this Act or the regulations may be instituted within two years after the time the subject-matter of the proceedings arose.

Institution of
proceedings
R.S.O. 1980,
c. 400

50. This Act comes into force on the 1st day of January, 1987.

Commence-
ment

51. The short title of this Act is the *Game and Fish Amendment Act, 1986*.

Short title

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 167

An Act to amend the Assessment Act

The Hon. R. Nixon
Minister of Revenue

1st Reading December 4th, 1986

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The purpose of the Bill is,

- (a) to provide for the return of assessment rolls for municipal taxation at present levels of assessment except where re-assessment is introduced by proclamation at full market value, by equalization of assessment based on market value under subsection 63 (3) or on a region or county-wide basis;
- (b) to place condominium owners on an equal footing with all other single-family residential property owners by providing that, the assessments of condominium and co-operative units, like the assessments of all other properties, will not be adjusted annually, and that, in any appeal of the assessment of a condominium unit, proposed condominium unit or unit or suite in a co-operative housing corporation, the unit shall be assessed at the same proportion of market value as are single-family residences and condominium units in the vicinity.

SECTION 1. The effect of the re-enactment of subsection 63 (1) of the Act is to provide for the return of assessment rolls for municipal taxation at present levels of assessment except where a reassessment is introduced by proclamation at full market value or by equalization of assessment based on market value. Subsection 63 (1) now reads as follows:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act,

- (a) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;*
- (b) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975;*
- (c) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976;*
- (d) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977;*
- (e) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1978 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1977 for taxation in the year 1978 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1978;*
- (f) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1979 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1978 for taxation in the year 1979 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1980 is returned;*

- (g) *subject to subsection (2), the assessment roll of a municipality to be returned in the year 1980 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1979 for taxation in the year 1980 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1981 is returned;*
- (h) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1981 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1980 for taxation in the year 1981 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1982 is returned;*
- (i) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1982 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1981 for taxation in the year 1982 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1983 is returned;*
- (j) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1983 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1982 for taxation in the year 1983 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1984 is returned;*
- (k) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1984 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1983 for taxation in the year 1984 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1985 is returned; and*
- (l) *subject to subsection (2) and to subsection 65 (3), the assessment roll of a municipality to be returned in the year 1985 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1984 for taxation in the year 1985 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1986 is returned,*

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1985 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

SECTION 2. The effect of the re-enactment of subsection 65 (2) of the Act is to place condominium owners on an equal footing with all other single-family residential property owners by providing that the assessments of condominium and co-operative units, like the assessments of all other properties, will not be adjusted annually, and that, in any appeal of the assessment of a condominium unit, proposed condominium unit or unit or suite in a co-operative housing corporation, the unit shall be assessed at the same proportion of market value as are single-family residences and condominium units in the vicinity. Subsection 65 (2) now reads as follows:

(2) For the purposes of subsection (1) and of section 63, where a residential assessment is made with respect to a unit, as defined in the Condominium Act, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

SECTION 3. The repeal of section 68 of the Act is consequent upon the amendment made by section 1 of the Bill and provides that section 65 will remain in force as the

basis of an assessment appeal unless otherwise suspended by a proclamation at full market value under section 70. Section 68 now reads as follows:

68. Section 65 ceases to be in force on the 16th day of December, 1986, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1986.

SECTION 4. The re-enactment of section 69 of the Act relates to the change made by section 1 of the Bill and provides that under a proclamation at full market value, subsection 24 (6) of the Act, which provides for depreciation of pipe line assessments, may only be brought into force under subsection 70 (2) of the Act. Section 69 now reads as follows:

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1986.

SECTION 5. The deletion of the final clause in subsection 70 (1) of the Act is necessitated by the repeal of section 68 by section 3 of the Bill. Subsection 70 (1) now reads as follows:

(1) Notwithstanding any other provision of this Act, the Lieutenant Governor by proclamation may provide that, on a day named in the proclamation, the whole or any part of the provisions of sections 62 to 67 shall cease to be in force in any municipality or territory without municipal organization comprised in a locality named or described in the proclamation, and upon the making of such a proclamation the provisions of this Act specified in the proclamation cease to be in force in the municipality or territory without municipal organization comprised in a locality named or described as of the date named in the proclamation, but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68.

Bill 167

1986

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4, 1983, chapter 58, section 4, 1984, chapter 49, section 1 and 1985, chapter 9, section 1, is repealed and the following substituted therefor:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, the assessment roll of a municipality to be returned in each year for taxation in the next following year shall be the assessment of all real property as set forth in the assessment roll returned in the immediately preceding year as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the next following year is returned, provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years after 1973 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Roll to be
returned in
each year

2. Subsection 65 (2) of the said Act is repealed and the following substituted therefor:

(2) For the purposes of subsection (1), where a residential assessment has been made with respect to a unit, as defined in the *Condominium Act*, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

Condominium
and
co-operative
housing
R.S.O. 1980,
c. 84

3. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 2, is repealed.

4. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 3, is repealed and the following substituted therefor:

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until a day to be named by proclamation of the Lieutenant Governor.

5. Subsection 70 (1) of the said Act is amended by striking out “but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68” in the twelfth, thirteenth, fourteenth and fifteenth lines.

Commence-
ment

6. This Act shall be deemed to have come into force on the 1st day of December, 1986.

Short title

7. The short title of this Act is the *Assessment Amendment Act, 1986*.

Bill 167

*(Chapter 71
Statutes of Ontario, 1986)*

An Act to amend the Assessment Act

The Hon. R. Nixon
Minister of Revenue



<i>1st Reading</i>	December 4th, 1986
<i>2nd Reading</i>	December 16th, 1986
<i>3rd Reading</i>	December 18th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 167

1986

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 63 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 13, 1982, chapter 56, section 4, 1983, chapter 58, section 4, 1984, chapter 49, section 1 and 1985, chapter 9, section 1, is repealed and the following substituted therefor:

(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, the assessment roll of a municipality to be returned in each year for taxation in the next following year shall be the assessment of all real property as set forth in the assessment roll returned in the immediately preceding year as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the next following year is returned, provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years after 1973 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Roll to be
returned in
each year

2. Subsection 65 (2) of the said Act is repealed and the following substituted therefor:

(2) For the purposes of subsection (1), where a residential assessment has been made with respect to a unit, as defined in the *Condominium Act*, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed.

Condominium
and
co-operative
housing
R.S.O. 1980,
c. 84

3. Section 68 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 2, is repealed.

4. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 9, section 3, is repealed and the following substituted therefor:

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until a day to be named by proclamation of the Lieutenant Governor.

5. Subsection 70 (1) of the said Act is amended by striking out “but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68” in the twelfth, thirteenth, fourteenth and fifteenth lines.

Commence-
ment

6. This Act shall be deemed to have come into force on the 1st day of December, 1986.

Short title

7. The short title of this Act is the *Assessment Amendment Act, 1986*.

Bill 168



An Act to amend the Legislative Assembly Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 8th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$36,166 to \$37,567.

The annual allowance for expenses of members of the Assembly is increased from \$12,142 to \$12,616.

SECTION 2. Leaders' allowances for expenses are increased:

1. For the Premier, from \$6,832 to \$7,098.
2. For the Leader of the Opposition, from \$4,555 to \$4,733.
3. For the Leader of the Third Party, from \$2,277 to \$2,366.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$19,560 to \$20,323.
2. For the Leader of the Opposition, from \$26,499 to \$27,532.
3. For the Leader of the Third Party, from \$13,305 to \$13,825.

SECTION 4. Additional indemnities are increased:

1. For the Chairman of the Committees of the Whole House, from \$8,187 to \$8,506.
2. For the Deputy Chairman of the Committees of the Whole House, from \$5,686 to \$5,908.
3. For chairmen of standing committees, from \$4,434 to \$4,607.

SECTION 5. Additional indemnities to Whips are increased:

1. For the Chief Government Whip, from \$10,121 to \$10,156.
2. For the Deputy Government Whip, from \$6,936 to \$7,207.
3. For the Government Whips, from \$5,003 to \$5,198.
4. For the Chief Opposition Whip, from \$6,936 to \$7,207.
5. For the Opposition Whips, from \$5,003 to \$5,198.
6. For the Chief Party Whip of the Third Party, from \$5,686 to \$5,908.
7. For the Party Whip of the Third Party, from \$4,549 to \$4,726.

SECTION 6. Allowances for expenses are increased:

1. For each member of a committee, from \$65 to \$68.
2. For the chairman of a committee, from \$76 to \$79.

SECTION 7. Additional indemnities are increased:

1. For the Opposition House Leader, from \$10,121 to \$10,516.
2. For the House Leader of the Third Party, from \$7,619 to \$7,916.

Bill 168**1986****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,567 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,098 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$20,323 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$27,532 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,825.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,156 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,207 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,198 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

69. In addition to his indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986*.

Short title

Bill 168

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



1st Reading December 8th, 1986

2nd Reading December 15th, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$36,166 to \$37,576.

The annual allowance for expenses of members of the Assembly is increased from \$12,142 to \$12,616.

SECTION 2. Leaders' allowances for expenses are increased:

1. For the Premier, from \$6,832 to \$7,098.
2. For the Leader of the Opposition, from \$4,555 to \$4,733.
3. For the Leader of the Third Party, from \$2,277 to \$2,366.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$19,560 to \$20,323.
2. For the Leader of the Opposition, from \$26,499 to \$27,532.
3. For the Leader of the Third Party, from \$13,305 to \$13,824.

SECTION 4. Additional indemnities are increased:

1. For the Chairman of the Committees of the Whole House, from \$8,187 to \$8,506.
2. For the Deputy Chairman of the Committees of the Whole House, from \$5,686 to \$5,908.
3. For chairmen of standing committees, from \$4,434 to \$4,607.

SECTION 5. Additional indemnities to Whips are increased:

1. For the Chief Government Whip, from \$10,121 to \$10,516.
2. For the Deputy Government Whip, from \$6,936 to \$7,207.
3. For the Government Whips, from \$5,003 to \$5,198.
4. For the Chief Opposition Whip, from \$6,936 to \$7,207.
5. For the Opposition Whips, from \$5,003 to \$5,198.
6. For the Chief Party Whip of the Third Party, from \$5,686 to \$5,908.
7. For the Party Whip of the Third Party, from \$4,549 to \$4,726.

SECTION 6. Allowances for expenses are increased:

1. For each member of a committee, from \$65 to \$68.
2. For the chairman of a committee, from \$76 to \$79.

SECTION 7. Additional indemnities are increased:

1. For the Opposition House Leader, from \$10,121 to \$10,516.
2. For the House Leader of the Third Party, from \$7,619 to \$7,916.

Bill 168**1986****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,576 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,098 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$20,323 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$27,532 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,824.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,516 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,207 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,198 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

69. In addition to his indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986*.

Short title

Bill 168

(Chapter 72
Statutes of Ontario, 1986)

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	December 8th, 1986
<i>2nd Reading</i>	December 15th, 1986
<i>3rd Reading</i>	December 15th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 168

1986

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$37,576 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,616 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,098 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,733 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,366 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

(1) In addition to his indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$20,323 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$27,532 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,824.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,506 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,908 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,607 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,516 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,207 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,198 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,207 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,198 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,908 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,726 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1985, chapter 18, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1985 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$68 and to the chairman thereof an allowance for expenses of \$79, and,

.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 18, section 8, is repealed and the following substituted therefor:

69. In addition to his indemnity as a member, an indemnity shall be paid,

House
Leaders'
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,516 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,916 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1986*.

Short title



Bill 169

An Act to amend the Executive Council Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading December 8th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

SECTION 1. Annual salaries are increased as follows:

1. Premier and President of the Council, from \$37,759 to \$39,231.
2. Minister with portfolio, from \$26,499 to \$27,532.
3. Minister without portfolio, from \$13,306 to \$13,825.
4. Parliamentary Assistant, from \$8,187 to \$8,506.

Bill 169

1986

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 19, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$27,532. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$11,699 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,825. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,506. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1986. Commence-ment

3. The short title of this Act is the *Executive Council Amendment Act, 1986*. Short title

DN

Bill 169

*(Chapter 73
Statutes of Ontario, 1986)*

An Act to amend the Executive Council Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	December 8th, 1986
<i>2nd Reading</i>	December 15th, 1986
<i>3rd Reading</i>	December 15th, 1986
<i>Royal Assent</i>	December 18th, 1986

Bill 169

1986

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 19, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$27,532. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$11,699 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,825. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,506. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1986. Commence-ment

3. The short title of this Act is the *Executive Council Amendment Act, 1986*. Short title

Bill 170

An Act to revise the Pension Benefits Act

The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading December 9th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill revises the *Pension Benefits Act*. The changes include the following:

1. The role of the administrator of a pension plan is emphasized. (sections 8, 20)
2. Minimum contents to be set out in a pension plan are established. (section 10)
3. A statutory standard of care is set out for persons involved in the administration of pension plans and pension funds. (section 23)
4. Provision is made for the appointment of advisory committees to monitor the pension plan where there is no member representation on the body responsible for the administration of the plan. (section 25)
5. A maximum period of two years of employment for full-time employees to become eligible to join a pension plan is established. (section 32)
6. The maximum eligibility for membership in a pension plan for part-time employees is two years of employment with minimum income based on the Year's Maximum Pensionable Earnings. (section 32)
7. All employees in a class of employees, whether full-time or part-time, are eligible to become members of a pension plan that has been established for that class of employees. (section 32)
8. The maximum normal retirement date for pension plans is set as not later than one year after the attainment of sixty-five years of age. (section 36)
9. The maximum vesting period for benefits earned after December 31, 1986 is twenty-four months. (section 38)
10. Employers' contributions must provide at least 50 per cent of a pension earned after December 31, 1986. (section 40)
11. Persons who terminate employment are entitled to receive an early retirement pension at any time within ten years of attaining the normal retirement date established by the plan. (section 42)
12. Employees are given transfer options with respect to their deferred pensions upon termination of employment. The portability will be subject to limitations prescribed by regulation that relate to the solvency of the pension plan and that require the amount transferred to be treated in the same way as a pension. (section 43)
13. Where a person entitled to start receiving pension benefits has a spouse at the date payment commences, that pension must be in the form of a joint and survivor pension, unless the spouses have made a decision that it should be otherwise. (section 45)
14. The remarriage of a person who is receiving a survivor benefit under a pension plan will not disentitle that person to payment of the pension. (section 48)
15. The Bill provides for a minimum benefit to be paid to a spouse or a beneficiary where a person who is entitled to a deferred pension dies prior to receiving that pension. (section 49)
16. Where spouses have decided to split a pension by domestic agreement, or an order under the *Family Law Act, 1986* gives a spouse an interest in the other spouse's pension, the agreement or order is not effective to require payment of the pension benefit until the pension is in pay. (section 52)

17. Pension plans will not be able to discriminate on the basis of sex. (section 53)
18. Reductions based on entitlements to benefits under the *Canada Pension Plan*, *Quebec Pension Plan* or *Old Age Security Act* will be regulated. Also, new pension plans will not be able to permit the reduction of a pension based on the person's entitlement under the *Old Age Security Act*. (section 55)
19. Notice requirements related to an application for payment out of a pension plan to an employer of any surplus in the plan are set out in the Act. Criteria which the plan will have to satisfy prior to payment of surplus out of a plan to the employer will be established by regulation. The Commission is prohibited from giving its consent to an application until a prescribed date. (sections 79, 80)
20. A formal hearing procedure for proposals made by the Superintendent is established. The hearings will be by the Commission. (sections 90, 92)

Bill 170

1986

An Act to revise the Pension Benefits Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“additional voluntary contribution” means a contribution to the pension fund by a member of the pension plan beyond

any amount that the member is required to contribute, but does not include a contribution in relation to which the employer is required to make a concurrent additional contribution to the pension fund;

“administrator” means the person or persons that administer the pension plan;

“assets”, in relation to an employer, means assets that in the ordinary course of business would be entered in books of account, whether or not a particular asset is entered in the books of account of the employer;

“bridging benefit” means a periodic payment provided under a pension plan to a member of the pension plan for a temporary period of time after retirement for the purpose of supplementing the member’s pension benefit until the member is eligible to receive benefits under the *Old Age Security Act* (Canada) or commences to receive retirement benefits under the *Canada Pension Plan* or the *Quebec Pension Plan*;

R.S.C. 1970,
cc. O-6, C-5

R.S.Q. 1977,
c. R-9

“certified copy” means a copy certified to be a true copy;

“collective agreement” has the same meaning as in the *Labour Relations Act*;

R.S.O. 1980,
c. 228

“Commission” means the Pension Commission of Ontario;

“commuted value” means the value calculated in the prescribed manner and as of a fixed date of a pension, a deferred pension, a pension benefit or an ancillary benefit;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service and without regard to periods of lay-off from employment;

“contributory benefit” means a pension benefit or part of a pension benefit to which a member is required to make contributions under the terms of the pension plan;

“deferred pension” means a pension benefit, payment of which is deferred until the person entitled to the pension benefit reaches the normal retirement date under the pension plan;

“defined benefit” means a pension benefit other than a defined contribution benefit;

“defined contribution benefit” means a pension benefit determined with reference to and provided by contributions, and the interest on the contributions, paid by or for the credit of a member and determined on an individual account basis;

“designated province” means a province or territory of Canada that is prescribed by the regulations as a province or territory in which there is in force legislation substantially similar to this Act;

“employee” means a natural person who is employed by an employer;

“employer”, in relation to a pension plan, a member of a pension plan or a former member of a pension plan, means the employer required to make contributions under the pension plan;

“file” means file with the Superintendent;

“former member” means a person who has terminated employment or membership in a pension plan, and,

- (a) is entitled to a deferred pension payable from the pension fund,
- (b) is in receipt of a pension payable from the pension fund,
- (c) is entitled to commence receiving payment of pension benefits from the pension fund within one year after termination of employment or membership, or
- (d) is entitled to receive any other payment from the pension fund;

“Guarantee Fund” means the Pension Benefits Guarantee Fund continued by this Act;

“insurance company” means a corporation authorized to undertake life insurance in Canada;

“joint and survivor pension” means a pension payable for life to the person entitled to the pension and thereafter in whole or in part for life to the survivor of the person and the person’s spouse;

“member” means a member of the pension plan;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council for the purposes of this Act;

“multi-employer pension plan” means a pension plan established and maintained for employees of two or more employers who contribute or on whose behalf contributions are made to a pension fund by reason of agreement, statute or municipal by-law to provide a pension benefit that is determined by service with one or more of the employers, but does not include a pension plan where all the employers are affiliates within the meaning of the *Business Corporations Act*, 1982; 1982, c. 4

“normal retirement date” means the date or age specified in the pension plan as the normal retirement date of members;

“partial wind up” means the termination of part of a pension plan and the distribution of the assets of the pension fund related to that part of the pension plan;

“participating employer”, in relation to a multi-employer pension plan, means an employer required to make contributions to the multi-employer pension plan;

“pension” means a pension benefit that is in payment;

“pension benefit” means the aggregate monthly, annual or other periodic amounts payable to a member or former member during the lifetime of the member or former member, to which the member or former member will become entitled under the pension plan upon attainment of normal retirement date or to which any other person is entitled upon the death of a member or former member;

“pension committee” means a committee that is the administrator of a pension plan;

“pension fund” means the fund maintained to provide benefits under or related to the pension plan;

“pension plan” means a plan organized and administered to provide pensions for members under which the employer or employers of members of the pension plan are required to make contributions, but does not include,

- (a) an employees’ profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

- (b) a plan to provide a retiring allowance as defined in subsection 248 (1) of the *Income Tax Act* (Canada), or

- (c) any other prescribed type of plan;

“prescribed” means prescribed by the regulations;

“qualification date” means, in respect of Ontario, the 1st day of January, 1965, and, in respect of a designated province, the date on which under the law of the designated province a pension plan must be registered by the proper authority in the designated province;

“reciprocal transfer agreement” means an agreement related to two or more pension plans that provides for the transfer of moneys or credits for employment or both in respect of individual members;

“registration” means registration under this Act;

“regulations” means regulations made under this Act;

“spouse” means either of a man and woman who,

- (a) are married to each other, or

- (b) are not married to each other and are living together in a conjugal relationship,

- (i) continuously for a period of not less than three years, or

- (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act, 1986*;

1986, c. 4

“Superintendent” means Superintendent of Pensions;

“surplus” means the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner;

“termination”, in relation to employment, includes retirement and death;

R.S.O. 1980,
c. 228

“trade union” has the same meaning as in the *Labour Relations Act*;

“wind up” means the termination of a pension plan and the distribution of the assets of the pension fund;

“Year’s Maximum Pensionable Earnings” has the same meaning as in the *Canada Pension Plan*.

R.S.C. 1970,
c. C-5

APPLICATION

2. This Act binds the Crown.

Crown bound

3. This Act applies to every pension plan that is provided for persons employed in Ontario.

Employees
in Ontario

4.—(1) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report for work.

Place of
employment

(2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person’s remuneration is paid.

Idem

5. The requirements of this Act and the regulations shall not be construed to prevent the registration or administration of a pension plan and related pension fund that provide pension benefits or ancillary benefits more advantageous to members than those required by this Act and the regulations.

Greater
pension
benefits

REGISTRATION AND ADMINISTRATION

6.—(1) No person shall administer a pension plan unless a certificate of registration or an acknowledgment of application for registration of the pension plan has been issued by the Superintendent.

Prohibition
of adminis-
tration of
unregistered
pension plan

(2) Subsection (1) does not apply to prevent administration during the first ninety days after the establishment of the pension plan.

Application
of subs. (1)

7.—(1) No person shall administer a pension plan if registration of the pension plan has been refused or revoked by the Superintendent.

Refusal or
revocation

(2) Subsection (1) does not apply to prevent administration for the purpose of wind up of a pension plan.

Exception

8.—(1) A pension plan is not eligible for registration unless it is administered by an administrator who is,

Adminis-
trator

- (a) the employer or employers;
- (b) a pension committee composed of one or more representatives of,
 - (i) the employer or employers, or any person, other than the employer or employers, required to make contributions under the pension plan, and
 - (ii) members of the pension plan;
- (c) a pension committee composed of representatives of members of the pension plan;
- (d) the insurance company that provides the pension benefits under the pension plan, if all the pension benefits under the pension plan are guaranteed by the insurance company;
- (e) if the pension plan is a multi-employer pension plan established pursuant to a collective agreement, a board of trustees appointed pursuant to the pension plan or a trust agreement establishing the pension plan of whom at least one-half are representatives of members of the multi-employer pension plan; or
- (f) a board, agency or commission made responsible by an Act of the Legislature for the administration of the pension plan.

Additional
members

(2) A pension committee, or a board of trustees, that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.

Affiliate
1982, c. 4

(3) For the purpose of clause (1) (b), “employer” includes “affiliate” as defined in the *Business Corporations Act, 1982*, if the employer is a body corporate.

Application
for
registration

9.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is established, for registration of the pension plan.

Requirements
for
registration

(2) An application for registration shall be made by paying the prescribed fee to the Commission and filing,

- (a) a completed application in the prescribed form;

- (b) certified copies of the documents that create and support the pension plan;
- (c) certified copies of the documents that create and support the pension fund;
- (d) a certified copy of any reciprocal transfer agreement related to the pension plan;
- (e) a certified copy of the explanations and other information provided under subsection 26 (1); and
- (f) any other prescribed documents.

(3) For the purpose of subsection (2), “document” includes “collective agreement”. Collective agreement

10.—(1) The documents that create and support a pension plan shall set out the following information: Contents of pension plan

1. The method of appointment and the details of appointment of the administrator of the pension plan.
2. The conditions for membership in the pension plan.
3. The benefits and rights that are to accrue upon termination of employment, termination of membership, retirement or death.
4. The normal retirement date under the pension plan.
5. The contributions or the method of calculating the contributions required by the pension plan.
6. The method of determining benefits payable under the pension plan.
7. The method of calculating interest to be credited to contributions under the pension plan.
8. The mechanism for payment of the cost of administration of the pension plan and pension fund.
9. The mechanism for establishing and maintaining the pension fund.
10. The treatment of surplus during the continuation of the pension plan and on the wind up of the pension plan.

11. The obligation of the administrator to provide members with information and documents required to be disclosed under this Act and the regulations.
12. Any other prescribed information related to the pension plan or pension fund or both.

Multi-
employer
pension plan

(2) The documents that create and support a multi-employer pension plan pursuant to a collective agreement shall set out the powers and duties of the board of trustees that is the administrator of the multi-employer pension plan.

Gradual and
uniform
accrual of
pension
benefits

11.—(1) A pension plan is not eligible for registration unless it provides for the accrual of pension benefits in a gradual and uniform manner.

Variable
contributions
or pension
benefits

(2) A pension plan is not eligible for registration if the formula for computation of the employer's contributions to the pension fund or the pension benefit provided under the pension plan is variable at the discretion of the employer.

Variable
deferred
profit-sharing

(3) A deferred profit-sharing pension plan or a pension plan that provides defined contribution benefits is not eligible for registration if the formula governing allocation of contributions to the pension fund and profits among members of the plan is variable at the discretion of the employer.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the Superintendent may register a pension plan if the Superintendent is of the opinion that registration is justified in the circumstances of the pension plan and the members.

Application
for
registration
of
amendment

12.—(1) The administrator of a pension plan shall apply to the Superintendent, within sixty days after the date on which the pension plan is amended, for registration of the amendment.

Requirements
for
registration

(2) An application for registration of an amendment shall be made by paying the prescribed fee to the Commission and filing,

- (a) a certified copy of the amending document;
- (b) certified copies of any other prescribed documents; and
- (c) any other prescribed information.

(3) The administrator of a pension plan shall file a certified copy of each document that changes the documents that create and support the pension plan or pension fund.

Filing of
changes

13.—(1) An amendment to a pension plan is not effective until an application for registration of the amendment is made in accordance with this Act and the regulations.

When
amendment
becomes
effective

(2) An amendment to a pension plan may be made effective as of a date before the date on which the amendment is registered.

Retroactive
amendment

14.—(1) An amendment to a pension plan is void if the amendment purports to reduce,

Reduction
of benefits

(a) the amount or the commuted value of a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;

(b) the amount or the commuted value of a pension or a deferred pension accrued under the pension plan; or

(c) the amount or the commuted value of an ancillary benefit that a member or a former member is receiving or for which a member has satisfied all eligibility conditions.

(2) Subsection (1) does not apply in respect of a multi-employer pension plan established pursuant to a collective agreement.

Application
of subs. (1)

(3) Subsection (1) does not apply in respect of a pension plan that provides defined benefits if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.

Idem

15. The Superintendent shall issue an acknowledgment of application for registration of a pension plan within thirty days after receiving an application for the registration that complies with this Act and the regulations.

Acknowledgment of
application
for
registration

16. The Superintendent shall issue a certificate of registration for each pension plan registered under this Act.

Issuance of
certificate of
registration

17. The Superintendent shall issue a notice of registration for each amendment to a pension plan registered under this Act.

Issuance of
notice of
registration

Refusal or
revocation of
registration

18.—(1) The Superintendent may,

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) revoke the registration of a pension plan that does not comply with this Act and the regulations;
- (c) revoke the registration of a pension plan that is not being administered in accordance with this Act and the regulations;
- (d) refuse to register an amendment to a pension plan if the amendment is void or if the pension plan with the amendment would cease to comply with this Act and the regulations;
- (e) revoke the registration of an amendment that does not comply with this Act and the regulations.

Application
of subs. (1)

(2) The authority of the Superintendent under subsection (1) is subject to the right to a hearing under section 90.

Effect of
refusal or
revocation

(3) A refusal of registration of a pension plan or a revocation of registration of a pension plan operates to terminate the pension plan as of the date specified by the Superintendent.

Idem

(4) A refusal of registration of an amendment to a pension plan or the revocation of an amendment to a pension plan operates to terminate the amendment as of the date specified by the Superintendent.

Wind up

(5) Where registration of a pension plan is refused or revoked, the administrator shall wind up the pension plan in accordance with this Act and the regulations.

Conforming
amendment

19.—(1) Every employer who maintains a pension plan on the date this Act comes into force shall amend the pension plan to conform with this Act and the regulations within two years after the date this Act comes into force.

Exception
R.S.O. 1980,
c. 228

(2) If a pension plan is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is in effect on the date this section comes into force, the parties to the collective agreement or arbitration award shall amend the pension plan to conform to this Act and the regulations not later than the earlier of,

- (a) the date that is three years after the date on which this section comes into force; or
- (b) the day immediately after the date on which the collective agreement or arbitration award expires.

(3) The Superintendent shall not refuse to register a pension plan that is governed by a collective agreement or an arbitration award made under the *Labour Relations Act* that requires a provision contrary to this Act or the regulations and that is the subject of an application for registration submitted after the 31st day of December, 1986 if the pension plan would have been eligible for registration under the *Pension Benefits Act*.

Registration

R.S.O. 1980,
cc. 228, 373

20.—(1) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with this Act and the regulations.

Duty of
administrator

(2) The administrator of a pension plan shall ensure that the pension plan and the pension fund are administered in accordance with,

Idem

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

(3) The administrator of a pension plan may administer or permit administration of the pension plan and the pension fund in accordance with an amendment pending registration or refusal of registration of the amendment.

Idem,
amendment

21.—(1) The administrator of a pension plan shall file each year an annual information return in respect of the pension plan in the prescribed form and shall pay the prescribed filing fee.

Adminis-
trator's
annual
information
return

(2) The administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.

Additional
reports

Reciprocal
transfer
agreement

22. An administrator of a pension plan shall file a certified copy of a reciprocal transfer agreement entered into in respect of the pension plan.

Care,
diligence
and skill

23.—(1) The administrator of a pension plan shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person.

Special
knowledge
and skill

(2) The administrator or, if the administrator is a committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall use in the administration of the pension plan, and in the administration and investment of the pension fund, all relevant knowledge and skill that the administrator or member possesses or, by reason of his or her profession, business or calling, ought to possess.

Conflict of
interest

(3) An administrator or, if the administrator is a pension committee or a board of trustees, a member of the committee or board that is the administrator of a pension plan shall not knowingly permit his or her interest to conflict with his or her duties and powers in respect of the pension fund.

Employment
of agent

(4) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ one or more agents to carry out any act required to be done in the administration of the pension plan and in the administration and investment of the pension fund.

Responsi-
bility
for agent

(5) An administrator of a pension plan who employs an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable.

Employee
or agent

(6) An employee or agent of an administrator is also subject to the standards that apply to the administrator under subsections (1), (2) and (3).

Benefit by
administrator

(7) The administrator of a pension plan or, if the administrator is a pension committee or a board of trustees, a member of the committee or board is not entitled to any benefit from the pension plan other than pension benefits and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan.

Payment
to agent

(8) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the

usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.

24. An employer shall provide to the administrator of the pension plan any information required by the administrator for the purpose of complying with the terms of the pension plan or of this Act or the regulations.

Information
from
employer

25.—(1) The members of a pension plan by a majority vote may establish an advisory committee.

Advisory
committee

(2) Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee established under subsection (1).

Represent-
ation

(3) The purposes of an advisory committee are,

Purposes

- (a) to monitor the administration of the pension plan;
- (b) to make recommendations to the administrator respecting the administration of the pension plan; and
- (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pension benefits under the pension plan.

(4) The advisory committee or its representative has the right to examine the records of the administrator in respect of the administration of the pension plan and to make extracts from and copies of the records, but this subsection does not apply in respect of information as to the service, salary, pension benefits or other personal information related to any specific person without the person's prior consent.

Examination
of records

(5) Subsection (1) does not apply,

Application
of subs. (1)

- (a) if the pension plan is administered by a pension committee at least one of the members of which is appointed by the members of the pension plan; or
- (b) in respect of a multi-employer pension plan established pursuant to a collective agreement.

(6) The administrator of a pension plan shall provide to the advisory committee or its representative such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee.

Adminis-
trator
to provide
information

DISCLOSURE OF INFORMATION

Information
from
administrator

26.—(1) The administrator of a pension plan shall provide in writing to each person who will be eligible or is required to become a member of the pension plan,

- (a) an explanation of the provisions of the plan that apply to the person;
- (b) an explanation of the person's rights and obligations in respect of the pension plan; and
- (c) any other information prescribed by the regulations.

Time

(2) The administrator shall provide the information mentioned in subsection (1),

- (a) to each person who becomes a member within the prescribed period of time after the date on which the pension plan is established;
- (b) to a person who is likely to become eligible to become a member of the pension plan, within the prescribed period of time before the date on which the person is likely to become eligible;
- (c) to each person who becomes eligible to become a member of the pension plan upon becoming employed by the employer, within the prescribed period of time after the date on which the person becomes so employed.

Information
from
employer

(3) The employer shall transmit to the administrator the information necessary to enable the administrator to comply with subsection (2) and shall transmit the information in sufficient time to enable the administrator to comply with the time limits set out in that subsection.

Notice of
proposed
amendment

27.—(1) If the administrator of a pension plan applies for registration of an amendment to the pension plan that may adversely affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund, the Superintendent shall require the administrator to transmit to each such member, former member or other person a written notice containing an explanation of the amendment and inviting comments to be submitted to the administrator and the Superintendent, and the administrator shall provide to the Superintendent a copy of the notice and shall certify to the Superintendent the date on which the last such notice was transmitted.

(2) If the Superintendent has required the administrator to transmit notices under subsection (1), the Superintendent shall not register an amendment mentioned in that subsection before the expiration of forty-five days after the date certified to the Superintendent under that subsection, but after the expiration of the forty-five day period the Superintendent may register the amendment with such changes as are requested in writing by the administrator.

Registration

(3) Within the prescribed period of time after an amendment to a pension plan is registered, the administrator shall transmit notice and an explanation of the amendment to each member, former member and other person affected by the amendment.

Notice after registration

(4) The Superintendent need not require the transmittal of notices under subsection (1) or by order may dispense with the notice required by subsection (3), or both, if the Superintendent is of the opinion that the amendment is of a technical nature and will not substantially affect the pension benefits, rights or obligations of a member or former member or a person entitled to payments from the pension fund or if the amendment has been agreed to by a trade union that represents the members.

Order dispensing with notice

28. The administrator of a pension plan shall transmit annually to each member a written statement containing the prescribed information in respect of the pension plan, the member's pension benefits and any ancillary benefits.

Annual statement of pension benefits

29.—(1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member, the administrator of the pension plan shall give to the member, or to any other person who as a result becomes entitled to a payment under the pension plan, a written statement setting out the prescribed information in respect of the benefits, rights and obligations of the member or other person.

Statement of benefits

(2) Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member.

Multi-employer pension plan

30.—(1) On written request, the administrator of a pension plan shall make available the prescribed documents and information in respect of the pension plan for inspection without charge by,

Inspection of administrator's documents

(a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

Place of
inspection

(2) The administrator shall make the prescribed documents and information available,

- (a) for a member, at the premises of the employer where the member is employed;
- (b) for a former member, at the premises where the former member was employed; or
- (c) for a member, former member or any other person, at such other location as may be agreed upon by the administrator and the member, former member or other person making the request.

Extracts
or copies

(3) The administrator shall permit the person making the inspection to make extracts from or to copy the prescribed documents and information.

Idem

(4) On request, the administrator shall provide the person making the inspection with copies of any of the prescribed documents or information upon payment to the administrator of a reasonable fee.

Limitation

(5) A member, former member or spouse, or the agent of any of them, or a trade union by a representative, is entitled to make an inspection under subsection (1) not more than once in a calendar year.

Inspection
of filed
documents

31.—(1) The persons mentioned in subsection (2) are entitled to inspect at the offices of the Commission during business hours of the Commission the documents that comprise a pension plan and such other prescribed documents as are filed in respect of the pension plan, and are entitled to copies of the documents upon payment of the prescribed fees.

Persons
entitled to
inspect

(2) The persons entitled to make the inspection in respect of a pension plan are,

- (a) a member;

- (b) a former member;
- (c) the spouse of a member or former member;
- (d) an agent authorized in writing by a member, former member or the spouse of a member or former member; or
- (e) a representative of a trade union that represents members of the pension plan.

MEMBERSHIP

32.—(1) Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.

Eligibility
for
membership

(2) An employee in a class of employees for whom a pension plan is maintained is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.

Full-time
employment

(3) A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer with earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.

Part-time
employment

(4) A multi-employer pension plan may require a total of not more than twenty-four months of employment by one or more of the participating employers and earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings in each of the two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the multi-employer pension plan.

Multi-
employer
pension plan

(5) The Superintendent may give the approval mentioned in subsection (3) or (4) if the Superintendent is of the opinion that the basis is equivalent in the circumstances to the earnings mentioned in the subsection.

Approval

33. A member of a pension plan who is employed continuously on a less than full-time basis does not cease to be a member by reason only that he or she has earnings of less

Loss of
membership

than 35 per cent of the Year's Maximum Pensionable Earnings in a calendar year.

Dispute as
to member
of class of
employees

34.—(1) Where there is a dispute as to whether or not an employee is a member of a class of employees for whom a pension plan is established or maintained, the Superintendent, subject to section 90, by order may require the administrator to accept the employee as a member.

Ground
for order

(2) The Superintendent may make the order if the Superintendent is of the opinion that, on the basis of the nature of the employment or of the terms of employment of the employee, the employee is a member of the class.

Separate
pension plan

35. An employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.

RETIREMENT AND VESTING

Right to
pension

36.—(1) A member of a pension plan is entitled to a pension under the pension plan calculated in accordance with the benefit formula of the pension plan if,

- (a) the member's employment with the employer is terminated on or after the normal retirement date under the pension plan;
- (b) in respect of employment before the 1st day of January, 1987, the member was employed by the employer, or was a member of the pension plan, for a continuous period of at least ten years at the date of termination of the employment; and
- (c) in respect of employment after the 31st day of December, 1986, the member was a member of the pension plan for a continuous period of at least twenty-four months.

Normal
retirement
date

(2) The normal retirement date under a pension plan submitted for registration after the 31st day of December, 1986 shall not be later than one year after the attainment of sixty-five years of age.

Transitional

(3) Every pension plan registered or submitted for registration before the 1st day of January, 1987 shall be deemed to

specify a normal retirement date in respect of pension benefits that accrue after the 31st day of December, 1986 that is not later than one year after the attainment of sixty-five years of age, unless the pension plan specifies an earlier normal retirement date.

(4) A member of a pension plan who continues to be employed by the employer after the normal retirement date and who is not receiving a pension under the pension plan, has the right to continue to be a member of the pension plan to the date of termination of the employment and has the right to continue to accrue pension benefits calculated in accordance with the benefit and contribution formula of the pension plan to the date of termination of the employment to the maximum benefits allowed under the pension plan.

Continuation
after normal
retirement
date

37.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Deferred
pension
for past
service

(2) The qualifications are,

Qualifications

- (a) that the member must have been employed by the employer, or have been a member of the pension plan, for a continuous period of at least ten years;
- (b) that the member must have reached the age of forty-five years; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

(3) The benefit is a deferred pension equal to the pension benefit provided under the pension plan as it existed on the 31st day of December, 1986 in respect of employment before the 1st day of January, 1987 in Ontario or in a designated province,

Amount

- (a) under the terms of the pension plan, with respect to employment on or after the qualification date;
- (b) by an amendment to the pension plan made on or after the qualification date; and
- (c) by the creation of a new pension plan on or after the qualification date.

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Application
of
subss. (1-3)

Deferred
pension

38.—(1) A member of a pension plan who meets the qualifications in subsection (2) is entitled to the benefit mentioned in subsection (3).

Qualifications

(2) The qualifications are,

- (a) that the member must be a member after the 31st day of December, 1986;
- (b) that the member must be a member for a continuous period of at least twenty-four months; and
- (c) that the member must terminate his or her employment with the employer before reaching the normal retirement date under the pension plan.

Amount

(3) The benefit is a deferred pension equal to the pension benefit provided in respect of employment in Ontario or in a designated province,

- (a) under the pension plan in respect of employment by the employer after the later of the 31st day of December, 1986 or the qualification date if the qualification date is later than the 31st day of December, 1986;
- (b) under any amendment made to the pension plan after the 31st day of December, 1986; and
- (c) under any new pension plan established after the 31st day of December, 1986 for members of the pension plan.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply in respect of benefits that result from additional voluntary contributions.

Termination
by member

39.—(1) A person who is,

- (a) a member of a multi-employer pension plan;
- (b) a member of a pension plan who is employed by the employer on a less than full-time basis; or
- (c) a member of a pension plan who has been laid off from employment by the employer,

is entitled to terminate his or her membership in the pension plan if no contributions are paid or are required to be paid to the pension fund by or on behalf of the member for twenty-

four consecutive months or for such shorter period of time as is specified in the pension plan.

(2) For the purpose of determining benefits under this Act, a person who terminates his or her membership in a pension plan shall be deemed to have terminated his or her employment. —

Effect of termination

(3) Subsections (1) and (2) do not apply if contributions are not paid or are not required to be paid because the person has become a member of another pension plan and there is a reciprocal transfer agreement respecting the two pension plans.

Application of subss. (1, 2)

BENEFITS

40.—(1) If the commuted value of a member's deferred pension accrued prior to the 1st day of January, 1987 is less than the value of the contributions the member was required to make under the pension plan prior to that date plus interest credited to the contributions, the member is entitled to have the commuted value of the deferred pension increased so that the commuted value is equal to the value of the contributions and the interest.

Value of deferred pension

(2) An increase in the value of the deferred pension resulting from an amendment to the pension plan made after the 31st day of December, 1986 shall not be included in calculating the commuted value of the deferred pension for the purposes of subsection (1).

Effect of amendment

(3) A member's contributions made after the 31st day of December, 1986 under a pension plan shall not be used to provide more than 50 per cent of the commuted value of the pension or deferred pension in respect of the contributory benefit accrued after that date to which the member is entitled under the pension plan on termination of membership or employment by the employer.

50 per cent rule

(4) A member mentioned in subsection (3) is entitled upon termination of employment or membership to payment from the pension fund of an amount equal to the amount by which the member's contributions under the pension plan plus the interest on the contributions exceeds one-half of the commuted value of the member's pension or deferred pension in respect of the contributory benefit accrued after the 31st day of December, 1986.

Entitlement to excess amount

Application
of
subss. (3, 4)

(5) Subsections (3) and (4) do not apply in respect of a defined contribution benefit or a benefit from additional voluntary contributions.

Matters that
may be
included

(6) The following may be included by the administrator of the pension plan in calculating a member's contributory benefit for the purposes of subsection (3):

1. Ancillary benefits related to employment after the 31st day of December, 1986.
2. Increases to pension benefits and ancillary benefits related to employment before the date of the amendment resulting from an amendment to the pension plan made after the 31st day of December, 1986.
3. Pension benefits and ancillary benefits related to employment before the date of the establishment of the pension plan, in the case of a pension plan established after the 31st day of December, 1986.

Ancillary
benefits

41.—(1) A pension plan may provide the following ancillary benefits:

1. Disability benefits.
2. Death benefits in excess of those provided in section 49 (pre-retirement death benefit).
3. Bridging benefits.
4. Supplemental benefits, other than bridging benefits, payable for a temporary period of time.
5. Early retirement options and benefits in excess of those provided by section 42 (early retirement option).
6. Postponed retirement options and benefits in excess of those referred to in subsection 36 (4).
7. Any prescribed ancillary benefit.

Use in
calculating
pension
benefit

(2) An ancillary benefit for which a member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or the commuted value of the pension benefit.

42.—(1) A former member is entitled to elect to receive an early retirement pension under the pension plan if he or she, Early retirement option

- (a) terminated employment with the employer after the 31st day of December, 1986;
- (b) is entitled to a deferred pension under this Act; and
- (c) is within ten years of attaining the normal retirement date.

(2) A member who is within ten years of attaining the normal retirement date and who would be entitled to a deferred pension on termination of employment with the employer is entitled upon termination of the employment or on the wind up of the pension plan in whole or in part to receive an early retirement pension under the pension plan. Idem

(3) The commuted value of a member's early retirement pension must be not less than the commuted value of the member's pension benefit under the pension plan. Committed value

(4) The commuted value of a former member's early retirement pension must be not less than the commuted value of the former member's deferred pension benefit under the pension plan. Idem, former member

(5) The member or former member is entitled to require the commencement of payment of the early retirement pension at any time within the ten year period mentioned in subsection (1) or (2). Payment

(6) An election under subsection (1) or (2) shall be made in writing, signed by the member or former member and delivered to the administrator of the pension plan. Election

43.—(1) A member of a pension plan whose employment with the employer is terminated and who is entitled to a deferred pension is entitled to require the administrator to pay the commuted value of the deferred pension, Transfer

- (a) to the pension fund related to another pension plan, if the administrator of the other pension plan agrees to accept the payment;
- (b) into a prescribed retirement savings arrangement; or

- (c) for the purchase for the member of a deferred life annuity under which payments will not commence more than ten years before the normal retirement date under the pension plan.

Limitation (2) The entitlement under subsection (1) is subject to the prescribed limitations in respect of the transfer of funds from pension funds.

Application
of subs. (1) (3) Subsection (1) does not apply to a member whose employment is terminated and who is entitled to immediate payment of a pension benefit under the pension plan or under section 42, unless the pension plan provides such an entitlement.

Direction (4) A member may exercise his or her entitlement under subsection (1) by delivering to the administrator within the prescribed period of time a direction in a form supplied by the Superintendent.

Compliance
with
direction (5) Subject to compliance with the requirements of this section and the regulations, the administrator shall comply with the direction within the prescribed period of time after delivery of the direction.

Terms of
arrangement
or deferred
annuity (6) The administrator shall not make payment,

- (a) under clause (1) (b) unless the retirement savings arrangement meets the requirements prescribed by the regulations; or
- (b) under clause (1) (c) unless the contract to purchase the deferred life annuity meets the prescribed requirements and payments under the deferred life annuity will not commence more than ten years before the normal retirement date under the pension plan.

Approval (7) If a payment under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the payment without the approval of the Superintendent.

Terms and
conditions (8) The Superintendent may approve the payment subject to such terms and conditions as the Superintendent considers appropriate in the circumstances.

Order for
repayment (9) If a payment that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is

failure to comply with a term or condition attached to the approval, the Superintendent by order, subject to section 90 (hearing), may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon.

(10) Subject to section 90 (hearing and appeal), an order for payment under subsection (9), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

44.—(1) The administrator of a pension plan who is required by the pension plan to provide a pension, a deferred pension or an ancillary benefit may purchase the pension, deferred pension or ancillary benefit from an insurance company. Purchase of pension

(2) The authority of the administrator under subsection (1) is subject to the entitlement of a member under section 43 and to the limitations prescribed in relation to transfers of funds from pension funds. Limitations

(3) If a purchase under subsection (1) does not meet the limitations prescribed in relation to transfers of funds from pension funds, the administrator shall not make the purchase without the prior approval of the Superintendent. Approval by Superintendent

(4) The Superintendent may approve a purchase mentioned in subsection (3) subject to such terms and conditions as the Superintendent considers appropriate in the circumstances. Idem

(5) If a purchase that does not meet the limitations prescribed in relation to transfers of funds from pension funds is made without the approval of the Superintendent or there is a failure to comply with a term or condition attached to the approval, the Superintendent, subject to section 90 (hearing), by order may require any person to whom payment under subsection (1) has been made to repay an amount not greater than the amount of the payment together with interest thereon. Order for repayment

(6) Subject to section 90 (hearing and appeal), an order for payment under subsection (5), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

45.—(1) Every pension paid under a pension plan to a former member who has a spouse on the date that the pay- Joint and survivor pension benefits

ment of the first instalment of the pension is due shall be a joint and survivor pension.

Commuted
value

(2) The commuted value of a joint and survivor pension under subsection (1) shall not be less than the commuted value of the pension that would be payable under the pension plan to the former member.

Amount of
survivor
benefit

(3) The amount of the pension payable to the survivor of the former member and the spouse of the former member shall not be less than 60 per cent of the pension paid to the former member during the joint lives of the former member and his or her spouse.

Application
of
subss. (1-3)

(4) Subsections (1) to (3) do not apply,

- (a) in respect of a pension benefit if payment of the pension has commenced before the 1st day of January, 1987; or
- (b) in respect of a former member who is living separate and apart from his or her spouse on the date that payment of the first instalment of the pension is due.

Information
for payment

46.—(1) Before commencing payment of a pension or pension benefit, the administrator of a pension plan shall require the person entitled to the payment to provide to the administrator the information needed to calculate and pay the pension or pension benefit.

Person to
provide
information

(2) The person entitled to the payment shall provide the information to the administrator.

Discharge
of
administrator

(3) In the absence of actual notice to the contrary, the administrator is discharged on paying the pension or pension benefit in accordance with the information provided by the person in accordance with subsection (2) or, if the person does not provide the information, in accordance with the latest information in the records of the administrator.

Waiver of
joint and
survivor
pension
benefit

47.—(1) The persons entitled to a joint and survivor pension benefit may waive the entitlement by delivering to the administrator of the pension plan a written direction in the form that shall be supplied by the Superintendent or a certified copy of a domestic contract, as defined in Part IV of the *Family Law Act, 1986*, containing the waiver.

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Time

(2) The waiver is not effective unless the written direction or certified copy is delivered to the administrator within the

period of twelve months immediately preceding the commencement of payment of the pension benefit.

(3) Persons who have delivered a waiver under subsection (1) may jointly cancel the waiver by written and signed notice delivered to the administrator before commencement of payment of the pension benefit.

Cancellation
of waiver

48.—(1) The spouse of a deceased former member of a pension plan who is receiving a pension under the pension plan is not disentitled to payment of the pension by reason only of remarriage after the death of the former member.

Remarriage
of spouse

(2) Subsection (1) applies in respect of pensions that are being paid on the 1st day of January, 1987 or that commence to be paid after the 31st day of December, 1986.

Application
of subs. (1)

49.—(1) If a person entitled under a pension plan to a deferred pension described in section 38 (entitlement to deferred pension) dies before commencement of payment of the deferred pension, the person's spouse on the date of death is entitled,

Pre-
retirement
death
benefit

- (a) to receive payment of an amount equal to the commuted value of the deferred pension; or
- (b) to an immediate or deferred pension the commuted value of which is at least equal to the commuted value of the deferred pension.

(2) The spouse shall elect within the prescribed period of time to receive payment under clause (1) (a) or to receive an immediate or deferred pension under clause (1) (b), or, if the spouse does not so elect, the spouse shall be deemed to have elected to receive payment under clause (1) (a).

Election

(3) If a member of a pension plan dies while employed by the employer, entitlement to a deferred pension and the commuted value of the deferred pension shall be calculated as if the person's employment were terminated immediately before the person's death.

Idem

(4) A member or former member of a pension plan may designate a beneficiary and the beneficiary is entitled to be paid an amount equal to the commuted value of the deferred pension mentioned in subsection (1) if the member or former member does not have a spouse on the date of the death of the member or former member.

Designated
beneficiary

Estate
entitlement

(5) If the member or former member does not have a spouse and has not designated a beneficiary under subsection (4), the estate of the member or former member is entitled to receive payment of the commuted value.

Person to
provide
information

(6) The person entitled to the payment shall provide to the administrator the information needed to make the payment.

Discharge of
administrator

(7) In the absence of actual notice to the contrary, the administrator is discharged on making payment in accordance with the information provided by the person.

Application
of subs. (1)

(8) Subsection (1) does not apply if the person and the person's spouse are living separate and apart on the date of the person's death.

Offset

(9) A pension plan may provide for a reduction of the amount payable under clause (1) (a) or (b) to offset that part of an additional benefit that is attributable to an amount paid by the employer to provide the additional benefit, subject to the following:

1. The amount of the reduction shall be calculated in the prescribed manner.
2. The amount of the reduction shall not exceed the prescribed limit or the limit calculated in the prescribed manner.
3. No reduction shall be made unless the additional benefit is provided under the prescribed type of agreement.

Variation of
payment to
disabled
person

50. A pension plan may permit variation in the terms of payment of a pension or deferred pension by reason of the mental or physical disability of a member or former member that is likely to shorten considerably the life expectancy of the member or former member.

Commuted
value

51.—(1) A pension plan may provide for payment to a former member of the commuted value of a benefit if the annual benefit is not more than 2 per cent of the Year's Maximum Pensionable Earnings in the year that the former member terminated employment.

Idem

(2) A pension plan registered before the 1st day of January, 1987 may provide that upon termination of employment a person entitled to a deferred pension under section 37 (deferred pension) is entitled to payment of an amount not greater than 25 per cent of the commuted value of the deferred pension.

52.—(1) A domestic contract as defined in Part IV of the *Family Law Act, 1986* or an order under Part I of that Act is not effective to require payment of a pension benefit before the earlier of,

Payment on marriage
breakdown
1986, c. 4

- (a) the date on which payment of the pension benefit commences; or
- (b) the normal retirement date of the relevant member or former member.

(2) A domestic contract or an order mentioned in subsection (1) is not effective to reduce the pension benefit of a member or former member of a pension plan to less than one-half of the amount of the pension benefit accrued during the period the member or former member and the other person were spouses.

Reduction
of pension
benefit

(3) If payment of a pension or a deferred pension is divided between spouses by a domestic contract or an order mentioned in subsection (1), the administrator is discharged on making payment in accordance with the domestic contract or order.

Discharge of
administrator

(4) If a domestic contract or an order mentioned in subsection (1) affects a pension, the administrator of the pension plan shall revalue the pension in the prescribed manner.

Revaluation
of joint and
survivor
pension

(5) A spouse on whose behalf a certified copy of an order or domestic contract mentioned in subsection (1) is given to the administrator of a pension plan has the same entitlement under section 43 (transfer) in respect of the commuted value of the spouse's interest in the deferred pension as the member named in the order or domestic contract has in respect of the member's interest in the deferred pension when the member terminates his or her employment.

Transfer

53.—(1) The sex of a member, former member or other beneficiary under a pension plan shall not be taken into account in,

Discrimi-
nation
on basis of
sex

- (a) determining the amount of contributions required to be made by a member of the plan;
- (b) determining the pension benefits or the commuted value of pension benefits that a member, former member or other beneficiary is or may become entitled to;

- (c) the provision of eligibility conditions for membership; and
- (d) the provision of ancillary benefits.

Adminis-
tration

(2) In order to comply with subsection (1), the administrator may,

- (a) use annuity factors that do not differentiate as to sex;
- (b) provide for employer contributions that vary according to the sex of the employee; or
- (c) use any prescribed method of calculation or valuation.

Application

(3) This section applies in respect of contributions, benefits and conditions in relation to,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; and
- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

Discrimi-
nation
on basis of
marital status

54.—(1) Where a pension plan provides for a joint and survivor pension benefit, the commuted value of the pension benefit payable to a former member who does not have a spouse shall be equal to the commuted value of the joint and survivor pension benefit payable to a former member who does have a spouse.

Application
of subs. (1)

(2) Subsection (1) applies to pension benefits resulting from,

- (a) employment after the 31st day of December, 1986;
- (b) employment before the 1st day of January, 1987, in so far as it is dealt with in an amendment made to the pension plan after the 31st day of December, 1986; or

- (c) employment before the 1st day of January, 1987, in so far as it is dealt with in a pension plan established after the 31st day of December, 1986.

55.—(1) The reduction of a pension or a deferred pension that may be required by a pension plan in relation to payment under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) shall not exceed the reduction calculated in accordance with the prescribed formula.

Integrated pension plan

R.S.C. 1970, c. C-5;

R.S.Q. 1977, c. R-9

R.S.C. 1970, c. O-6

(2) The reduction referred to in subsection (1) shall be applied prior to any other adjustments required under the pension plan.

Idem

(3) The amount of a reduction in a pension or deferred pension required under a pension plan in relation to the payments mentioned in subsection (1) shall not be increased by reason of an increase in the amount of any of the other payments after the date of the member's termination of employment.

Further reduction

(4) A pension plan for registration of which application is made after the 31st day of December, 1986 shall not permit the reduction of a pension or a deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada).

Reduction re *Old Age Security Act* (Canada)

R.S.C. 1970, c. O-6

(5) Subsection (4) does not apply to a pension plan that is a successor of a pension plan registered under the *Pension Benefits Act* that permitted such a reduction.

Application of subs. (4)

R.S.O. 1980, c. 373

(6) A pension plan shall not permit the reduction of a pension or deferred pension based on a person's entitlement under the *Old Age Security Act* (Canada) in respect of a benefit accrued after the 31st day of December, 1986.

Idem

(7) The value of a bridging benefit, for receipt of which a member or former member has satisfied all eligibility requirements of the pension plan before the 1st day of January, 1987, shall not be reduced by reason only of the eligibility of the member or former member to receive a payment before reaching sixty-five years of age under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada).

Bridging benefit

R.S.C. 1970, c. C-5

R.S.Q. 1977, c. R-9

R.S.C. 1970, c. O-6

(8) If a pension plan provides a bridging benefit without reference to a specific age at which payment of the bridging benefit is to be reduced or to cease, the pension plan shall be

Age

deemed to provide that the bridging benefit shall be reduced or cease to be paid when the recipient of the bridging benefit reaches sixty-five years of age.

Application
of subs. (8)

(9) Subsection (8) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to establish a specific age for the purpose of determining when a bridging benefit shall be reduced or cease to be paid.

Idem

R.S.C. 1970,
c. C-5
R.S.Q. 1977,
c. R-9
R.S.C. 1970,
c. O-6

(10) If a pension plan provides for variation of a pension benefit by reason of a benefit payable under the *Canada Pension Plan*, the *Quebec Pension Plan* or the *Old Age Security Act* (Canada) without specifically stating the age at which the variation is to occur, the pension plan shall be deemed to provide that the variation is to occur when the recipient of the pension benefit reaches sixty-five years of age.

Application
of subs. (10)

(11) Subsection (10) ceases to apply to a pension plan that is amended after the 31st day of December, 1986 to specifically state the age at which variation of a pension benefit is to occur.

CONTRIBUTIONS

Funding

56.—(1) A pension plan is not eligible for registration unless it provides for funding sufficient to provide the pension benefits, ancillary benefits and other benefits under the pension plan in accordance with this Act and the regulations.

Payment

(2) An employer required to make contributions under a pension plan, or a person required to make contributions under a pension plan on behalf of an employer, shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding,

- (a) to the pension fund; or
- (b) if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.

Notice to
Superin-
tendent

57.—(1) The administrator of a pension plan or, if there is an agent of the administrator responsible for receiving contributions under the pension plan, the administrator and the agent shall give written notice to the Superintendent of a contribution that is not paid when due.

When notice
required

(2) The administrator and the agent shall give the notice to the Superintendent within sixty days after the date on which

the administrator or the agent first became aware of the failure to pay the contribution.

58.—(1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee's contribution under the pension plan, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund. Trust property

(2) For the purposes of subsection (1), money withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee shall be deemed to be money received by the employer from the employee. Money withheld

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund. Accrued contributions

(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations. Wind up

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4). Lien and charge

(6) Subsections (1), (3) and (4) apply whether or not the moneys have been kept separate and apart from other money or property of the employer. Application of subss. (1, 3, 4)

59.—(1) Money that an employer is required to pay into a pension fund accrues on a daily basis. Accrual

(2) Interest on contributions shall be calculated and credited at a rate not less than the prescribed rates and in accordance with prescribed requirements. Interest

60. The administrator may commence proceedings in a court of competent jurisdiction to obtain payment of contributions due under the pension plan, this Act and the regulations. Collection of contributions

Bond

61. The administrator of a multi-employer pension plan may require a person who receives contributions to the pension fund or who administers or invests the pension fund to be bonded in an amount required by the administrator or in the prescribed amount.

Statement of
employer's
obligation

62. An employer who is required to make contributions to a multi-employer pension plan shall transmit to the administrator of the plan a copy of the agreement that requires the employer to make the contributions or a written statement that sets out the contributions the employer is required to make and any other obligations of the employer under the pension plan.

Investment of
pension fund

63. Every person engaged in the investment of moneys of a pension fund shall ensure that the moneys are invested in accordance with this Act and the regulations.

LOCKING IN

Refunds

64.—(1) No member or former member is entitled to a refund from a pension fund of contributions made in respect of employment in Ontario or a designated province on or after the qualification date.

Idem

(2) Subsection (1) does not prevent the refund of an additional voluntary contribution and interest thereon to a member or former member or a payment under subsection 40 (4) (entitlement to excess amount).

Refund
related
to past
employment

(3) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 37 (deferred pension for past service) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment before the 1st day of January, 1987.

Refund
related
to post-
reform
employment

(4) Notwithstanding subsection (1), a member whose employment is terminated and who is not entitled to a pension or to a deferred pension under section 38 (deferred pension) is entitled to payment within the prescribed period of time of an amount equal to not less than the amount of the member's contributions, and the interest on the contributions, made under the pension plan in respect of the member's employment after the 31st day of December, 1986.

Application
of subs. (1)

(5) Subsection (1) does not apply,

- (a) to prevent the commutation of a pension benefit under subsection 51 (1) (commuted value);
- (b) to prevent a payment under subsection 51 (2); or
- (c) to such other circumstances as are prescribed.

(6) Subsections (3) and (4) do not apply in respect of a member of a multi-employer pension plan unless the member terminates his or her membership in the multi-employer pension plan.

Application
of
subss. (3, 4)

(7) Notwithstanding subsection (1), on application by the administrator, contributions may be refunded to a member or a former member with the consent of the Commission.

Refund with
consent

(8) On application by the administrator of a pension plan, the Commission may consent to a refund under subsection (7) if the pension plan provides or has been amended to provide for the refund and the employer has assumed responsibility for funding all pension benefits associated with the contributions.

Consent of
Commission

65. A pension plan may provide for shorter qualification periods than those set out in subsections 37 (1) (deferred pension for past service) and 38 (1) (deferred pension).

Shorter
qualification
periods

66.—(1) Every transaction that purports to assign, charge, anticipate or give as security money payable under a pension plan is void.

Void
transactions

(2) Every transaction that purports to assign, charge, anticipate or give as security money transferred from a pension fund in accordance with section 43 (transfer), 44 (purchase of pension), clause 49 (1) (b) (pre-retirement death benefit) or subsection 74 (2) (transfer rights on wind up) is void.

Idem

(3) Subsections (1) and (2) do not apply to prevent the assignment of an interest in moneys payable under a pension plan or moneys payable as a result of a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) (transfer rights on wind up) by an order under the *Family Law Act, 1986* or by a domestic contract as defined in Part IV of that Act.

Exemption
for order or
separation
agreement

1986, c. 4

67.—(1) Money payable under a pension plan is exempt from execution, seizure or attachment.

Exemption
from
execution,
seizure or
attachment

- Idem (2) Money transferred from a pension fund to a prescribed retirement savings arrangement or for the purchase of a life annuity under section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.
- Idem (3) Money payable from a prescribed retirement savings arrangement or from a life annuity purchased in accordance with section 43, 44, 49 or subsection 74 (2) is exempt from execution, seizure or attachment.
- Order for support or maintenance (4) Notwithstanding subsection (1), payments under a pension or that result from a purchase or transfer under section 43, 44, clause 49 (1) (b) or subsection 74 (2) are subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half the money payable.
- Application of subs. (4) (5) Subsection (4) applies to orders for support or maintenance enforceable in Ontario whether made before or after the coming into force of this Act.
- Commutation or surrender **68.**—(1) A pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement that results from a purchase or transfer under section 43, 44, 49 or subsection 74 (2) to which a person is entitled is not capable of being commuted or surrendered during the person's life.
- Void transaction (2) A transaction that purports to commute or surrender such a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement is void.
- Application of subss. (1, 2) (3) Subsections (1) and (2) do not apply to a variation of a pension or deferred pension under section 50 (variation of payment to disabled person) or to a commutation of a benefit under section 51 (commuted value).

WINDING UP

- Winding up **69.**—(1) The employer or, in the case of a multi-employer pension plan, the administrator may wind up the pension plan in whole or in part.
- Notice (2) The administrator shall give written notice of proposal to wind up the pension plan to,
- (a) the Superintendent;
 - (b) each member of the pension plan;
 - (c) each former member of the pension plan;

- (d) each trade union that represents members of the pension plan;
- (e) the advisory committee of the pension plan; and
- (f) any other person entitled to a payment from the pension fund.

(3) The notice of proposal to wind up shall contain the information prescribed by the regulations. Information

(4) The effective date of the wind up shall not be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension benefits, or, in any other case, on the date notice is given to members. Effective date

(5) The Superintendent by order may change the effective date of the wind up if the Superintendent is of the opinion that there are reasonable grounds for the change. Order by Superintendent

70.—(1) The Superintendent by order may require the wind up of a pension plan in whole or in part if, Winding up order by Superintendent

- (a) there is a cessation or suspension of employer contributions to the pension fund;
- (b) the employer fails to make contributions to the pension fund as required by this Act or the regulations;
- (c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada); R.S.C. 1970, c. B-3
- (d) a significant number of members of the pension plan cease to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer;
- (e) all or a significant portion of the business carried on by the employer at a specific location is discontinued;
- (f) all or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person;

- (g) the liability of the Guarantee Fund is likely to be substantially increased unless the pension plan is wound up in whole or in part;
- (h) in the case of a multi-employer pension plan,
 - (i) there is a significant reduction in the number of members, or
 - (ii) there is a cessation of contributions under the pension plan or a significant reduction in such contributions; or
- (i) any other prescribed event or prescribed circumstance occurs.

Date and
notice

(2) In an order under subsection (1), the Superintendent shall specify the effective date of the wind up, the persons or class or classes of persons to whom the administrator shall give notice of the order and the information that shall be given in the notice.

Wind up
report

71.—(1) The administrator of a pension plan that is to be wound up in whole or in part shall file a wind up report that sets out,

- (a) the assets and liabilities of the pension plan;
- (b) the benefits to be provided under the pension plan to members, former members and other persons;
- (c) the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits; and
- (d) such other information as is prescribed.

Payments
out of
pension
fund after
notice of
proposal to
wind up

(2) No payment shall be made out of the pension fund in respect of which notice of proposal to wind up has been given until the Superintendent has approved the wind up report.

Application
of subs. (2)

(3) Subsection (2) does not apply to prevent continuation of payment of a pension or any other benefit the payment of which commenced before the giving of the notice of proposal to wind up the pension plan or to prevent any other payment that is prescribed or that is approved by the Superintendent.

(4) An administrator shall not make payment out of the pension fund except in accordance with the wind up report approved by the Superintendent. Approval

(5) The Superintendent may refuse to approve a wind up report that does not meet the requirements of this Act and the regulations or that does not protect the interests of the members and former members of the pension plan. Refusal to approve

(6) On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up. Rights and benefits on partial wind up

72.—(1) If a pension plan that is to be wound up in whole or in part does not have an administrator or the administrator fails to act, the Superintendent may act as or may appoint an administrator. Appointment of administrator to wind up

(2) The reasonable administration costs of the Superintendent or of the administrator appointed by the Superintendent may be paid out of the pension fund. Costs of administration on winding up

73.—(1) On the wind up of a pension plan in whole or in part, the administrator shall give to each person entitled to a pension, deferred pension or other benefit or to a refund in respect of the pension plan a statement setting out the person's entitlement under the pension plan, the options available to the person and any other prescribed information. Notice of entitlements

(2) If a person to whom notice is given under subsection (1) is required to make an election, the person shall make the election within the prescribed period of time or shall be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor, or, if not eligible to receive immediate payment of a pension benefit, to receive a pension commencing at the earliest date mentioned in clause 75 (1) (b), and the administrator of the pension plan shall make payment in accordance with the election or deemed election. Election

74.—(1) For the purpose of determining the amounts of pension benefits on the winding up of a pension plan, in whole or in part, Determination of entitlements

- (a) the employment of each member of the pension plan affected by the winding up shall be deemed to

have been terminated on the effective date of the wind up;

- (b) each member's pension benefits as of the effective date of the wind up shall be determined as if the member had satisfied all eligibility conditions for a deferred pension; and
- (c) provision shall be made for the rights under section 75.

Transfer
rights on
wind up

(2) A person entitled to a pension benefit on the wind up of a pension plan, other than a person who is receiving a pension, is entitled to the rights under subsection 43 (1) (transfer) of a member who terminates employment and, for the purpose, subsection 43 (3) does not apply.

Combination
of age and
years of
employment

75.—(1) A member in Ontario of a pension plan whose combination of age plus years of employment or membership in the pension plan equals at least fifty-five, at the effective date of the wind up of the pension plan in whole or in part, has the right to receive,

- (a) a pension in accordance with the terms of the pension plan, if, under the pension plan, the member is eligible for immediate payment of the pension benefit;
- (b) a pension in accordance with the terms of the pension plan, beginning at the earlier of,
 - (i) the normal retirement date under the pension plan, or
 - (ii) the date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date; or
- (c) a reduced pension beginning on the date on which the member would be entitled to the reduced pension under the pension plan if the pension plan were not wound up and if the member's membership continued to that date.

Part year

(2) In determining the combination of age plus employment or membership, one-twelfth credit shall be given for each month of age and for each month of employment or membership.

(3) Bridging benefits offered under the pension plan shall be included in calculating the pension benefit under subsection (1) of a person who has at least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

Member for
ten years

(4) For the purposes of subsection (3), if the bridging benefit offered under the pension plan is not related to periods of employment or membership in the pension plan, the bridging benefit shall be prorated by the ratio that the member's actual period of employment bears to the period of employment that the member would have to the earliest date on which the member would be entitled to an unreduced pension under the pension plan if the pension plan were not wound up.

Prorated
bridging
benefit

(5) Membership in a pension plan that is wound up in whole or in part includes the period of notice of termination of employment required under Part XII of the *Employment Standards Act*.

Notice of
termination
of
employment
R.S.O. 1980,
c. 137

(6) Subsection (5) does not apply for the purpose of calculating the amount of a pension benefit of a member who is required to make contributions to the pension fund unless the member makes the contributions in respect of the period of notice of termination of employment.

Application
of subs. (5)

76.—(1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund,

Liability of
employer on
wind up

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Commission declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits vested under the pension plan, and
 - (iii) the value of benefits resulting from the application of subsection 40 (3) (50 per cent rule) and section 75,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

Payment

(2) The employer shall pay the moneys due under subsection (1) in the prescribed manner and at the prescribed times.

Pension fund continues subject to Act and regulations

77. The pension fund of a pension plan that is wound up continues to be subject to this Act and the regulations until all the assets of the pension fund have been disbursed.

Insufficient pension fund

78. Subject to the application of the Guarantee Fund, where the moneys in a pension fund are not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner.

SURPLUS

Payment out of pension fund to employer

79.—(1) No money may be paid out of a pension fund to the employer without the prior consent of the Commission.

Application for payment

(2) An employer who applies to the Commission for consent to payment of moneys to the employer out of a pension fund shall transmit notice of the application, containing the prescribed information, to,

- (a) each member and each former member of the pension plan to which the pension fund relates;
- (b) each trade union that represents members of the pension plan;
- (c) any other individual who is receiving payments out of the pension fund; and
- (d) the advisory committee established in respect of the pension fund.

Representations

(3) A person to whom notice has been transmitted under subsection (2) may make written representations to the Commission with respect to the application within thirty days after receiving the notice.

Continuing pension plan

80.—(1) The Commission shall not consent to payment of money to the employer out of a continuing pension plan unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Commission that the applicant is otherwise entitled to withdraw the surplus;
- (c) where all pension benefits under the pension plan are guaranteed by an insurance company, an amount equal to at least two years of the employer's current service costs is retained in the pension fund as surplus;
- (d) where the members are not required to make contributions under the pension plan, the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,is retained in the pension fund as surplus;
- (e) where members are required to make contributions under the pension plan, all surplus attributable to contributions paid by members and the greater of,
 - (i) an amount equal to two years of the employer's current service costs, or
 - (ii) an amount equal to 25 per cent of the liabilities of the pension plan calculated as prescribed,are retained in the pension fund as surplus; and
- (f) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

(2) Effective the 1st day of January, 1989, a pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence shall be con-

Where no provision in pension plan

strued to prohibit the withdrawal of surplus moneys accrued after the 31st day of December, 1986.

Wind up

(3) The Commission shall not consent to an application in respect of a pension plan that is being wound up in whole or in part unless,

- (a) the Commission is satisfied, based on reports provided with the application, that the pension plan has a surplus;
- (b) the pension plan provides for payment of surplus to the employer on the wind up of the pension plan;
- (c) all liabilities of the pension plan, calculated for the purpose of the termination of the pension plan, have been paid; and
- (d) the applicant and the pension plan comply with all other requirements prescribed under other sections of this Act in respect of the payment of surplus moneys out of a pension fund.

Idem

(4) Effective the 1st day of January, 1989, a pension plan that does not provide for payment of surplus moneys on the wind up of the pension plan shall be construed to require that surplus moneys accrued after the 31st day of December, 1986 shall be distributed proportionately on the wind up of the pension plan among members, former members and any other persons entitled to payments under the pension plan on the date of the wind up.

Decision

(5) The Commission shall transmit its decision, together with written reasons therefor, to the applicant and to each person who made written representations to the Commission in accordance with subsection 79 (3).

Conditions
and
limitations

(6) The Commission may attach such conditions and limitations to its consent under this section as the Commission considers necessary in the circumstances.

Application
of
R.S.O. 1980,
c. 484

(7) The *Statutory Powers Procedure Act* does not apply in respect of a decision made by the Commission under this section.

Interim
prohibition
to giving
consent

(8) The Commission shall not consent to payment of money from surplus to the employer out of a continuing pension plan until such date as may be prescribed.

SALES, TRANSFERS AND NEW PLANS

81.—(1) Where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer's business or all or part of the assets of the employer's business, a member of the pension plan who, in conjunction with the sale, assignment or disposition becomes an employee of the successor employer and becomes a member of a pension plan provided by the successor employer,

Continuation
of benefits
under succes-
sor employer

- (a) continues to be entitled to the benefits provided under the employer's pension plan in respect of employment in Ontario or a designated province to the effective date of the sale, assignment or disposition without further accrual;
- (b) is entitled to credit in the pension plan of the successor employer for the period of membership in the employer's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and
- (c) is entitled to credit in the employer's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under the employer's pension plan.

(2) Clause (1) (a) does not apply if the successor employer assumes responsibility for the accrued pension benefits of the employer's pension plan.

Exception

(3) Where a transaction described in subsection (1) takes place, the employment of the employee shall be deemed, for the purposes of this Act, not to be terminated by reason of the transaction.

Employment
deemed not
terminated

(4) Where a transaction described in subsection (1) occurs and the successor employer assumes responsibility in whole or in part for the pension benefits provided under the employer's pension plan, no transfer of assets shall be made from the employer's pension fund to the pension fund of the plan provided by the successor employer without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Transfer
on sale

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the

Consent by
Superin-
tendent

employer's pension plan or that does not meet the prescribed requirements and qualifications.

Order for
return

(6) The Superintendent by order may require the transferee to return to the pension fund, with interest, assets transferred without the prior consent required by subsection (4).

Wind up

(7) Where a transaction described in subsection (1) takes place and the successor employer does not provide a pension plan for members of the employer's pension plan who become employees of the successor employer, the administrator of the employer's pension plan shall wind up the pension plan in respect of those members.

Enforcement

(8) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Definition

(9) In this section, "successor employer" means the person who acquires the business or the assets of the employer.

Adoption
of new
pension plan

82.—(1) A pension plan shall not be wound up for the reason only that a new pension plan is established and the employer has ceased to make contributions to the original pension plan.

Continuation
of benefits

(2) The benefits under the original pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan.

Application
of subs. (2)

(3) Subsection (2) applies whether or not the assets and liabilities of the original pension plan are consolidated with those of the new pension plan.

Transfer
of assets

(4) No transfer of assets shall be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent or contrary to the prescribed terms and conditions.

Consent by
Superin-
tendent

(5) The Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications.

Order

(6) The Superintendent by order may require the transferee to return to the pension fund assets, with interest calculated in the prescribed manner, transferred without the prior consent

of the Superintendent or transferred contrary to a prescribed term or condition.

(7) Subject to section 90 (hearing and appeal), an order for return of assets under subsection (6), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court. Enforcement

PENSION BENEFITS GUARANTEE FUND

83.—(1) The Pension Benefits Guarantee Fund is continued. Guarantee Fund continued

(2) The Commission is responsible for the administration of the Guarantee Fund including the investment of the assets of the Guarantee Fund. Administration

(3) The Commission may charge to the Guarantee Fund the reasonable expenses incurred by the Commission in the administration of the Guarantee Fund. Expenses

(4) If at any time the amount standing to the credit of the Guarantee Fund is insufficient for the purpose of paying claims, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Guarantee Fund on such terms and conditions as the Lieutenant Governor in Council directs. Loans to Guarantee Fund

84.—(1) The Commission, subject to section 91 (notice and representations), shall declare, in the circumstances mentioned in subsection (2), that the Guarantee Fund applies to a pension plan. Guarantee Fund declaration

(2) The Commission shall make the declaration if, Conditions precedent

- (a) the pension plan is registered under this Act or is registered in a designated province to provide for the reciprocal application of this Act;
- (b) the pension plan provides defined benefits that are not exempt from the application of the Guarantee Fund by this Act or the regulations;
- (c) the pension plan is wound up in whole or in part; and
- (d) the Commission is of the opinion, upon reasonable and probable grounds, that the funding requirements of this Act and the regulations cannot be satisfied.

Guaranteed
benefits

85.—(1) Where the Guarantee Fund is declared by the Commission to apply to a pension plan, the following are guaranteed by the Guarantee Fund, subject to the limitations and qualifications as are set out in this Act or are prescribed:

1. Any pension in respect of employment in Ontario.
2. Any deferred pension in respect of employment in Ontario to which a former member is entitled, if the former member's employment or membership was terminated before the 1st day of January, 1987 and the former member was at least forty-five years of age and had at least ten years of continuous employment with the employer, or was a member of the pension plan for a continuous period of at least ten years, at the date of termination of employment.
3. A percentage of any defined pension benefits in respect of employment in Ontario to which a member or former member is entitled under section 37 or 38 (deferred pension), or both, if the member's or former member's employment or membership was terminated after the 31st day of December, 1986, equal to 20 per cent if the combination of the member's or former member's age plus years of employment or membership in the pension plan equals fifty, plus an additional $\frac{2}{3}$ of 1 per cent for each additional one-twelfth credit of age and employment or membership to a maximum of 100 per cent.
4. All additional voluntary contributions, and the interest thereon, made by members or former members while employed in Ontario.
5. The minimum value of all required contributions made to the pension plan by a member or former member in respect of employment in Ontario plus interest.

Bridging
benefits

(2) For the purpose of this section, where a member or former member has at least ten years of continuous employment with the employer, a deferred pension or a pension benefit includes bridging benefits.

Part year

(3) In determining the combination of age and membership or employment for subsection (1), one-twelfth credit shall be given for each full month of age and for each full month of employment or membership.

86. The following are not guaranteed by the Guarantee Fund: Payments not guaranteed

1. The payment of a pension or pension benefit under a pension plan that has been established or maintained for less than three years at the date of wind up.
2. Any increase to a pension or pension benefit or the value of a pension or pension benefit that became effective within three years before the date of wind up.
3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$1,000 per month or such greater amount as is prescribed by the regulations.
4. Pension benefits provided under a multi-employer pension plan.
5. Pension benefits provided under a pension plan that provides defined benefits, if the obligation of the employer to contribute to the pension fund is limited to a fixed amount set out in a collective agreement.
6. Pension benefits provided by prescribed pension plans or prescribed classes of pension plans.

87.—(1) Where money is paid out of the Guarantee Fund as a result of the wind up, in whole or in part, of a pension plan, the Commission has a lien and charge on the assets of the employer or employers who provided the pension plan. Lien for payment out of Guarantee Fund

(2) The lien and charge is in an amount equal to the amount of the payment out of the Guarantee Fund plus interest thereon calculated at the rate and in the manner prescribed by the regulations. Amount of lien

(3) The lien and charge does not affect assets that are real property until a notice of the lien and charge that includes a description of the real property is registered in the proper land registry office, and the Commission may so register notice of the lien and charge. Real property

(4) The Commission is subrogated to the rights of the administrator of a pension plan in respect of which the Commission authorizes payment from the Guarantee Fund in satis- Subrogation

faction of a pension, deferred pension, pension benefit or contribution guaranteed under section 85 (guaranteed benefits).

ORDERS

Order by
Superin-
tendent

88.—(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 90 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

Condition
precedent
to order

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

- (a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan;
- (b) that the pension plan does not comply with this Act and the regulations; or
- (c) that the administrator of the pension plan, the employer or the other person is contravening a requirement of this Act or the regulations.

Time

(3) In an order under this section, the Superintendent may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Reasons
for order

(4) An order under this section is not effective unless the reasons for the order are set out in the order.

Order by
Commission

89.—(1) The Commission, in the circumstances mentioned in subsection (2) and subject to section 91 (notice and representations), by order may require an administrator to take the action specified in subsection (3).

Grounds
for order

(2) The Commission may make an order under this section where the Commission is of the opinion,

- (a) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan are inappropriate for a pension plan;
- (b) that the assumptions or methods used in the preparation of a report required under this Act or the regulations in respect of a pension plan do not

accord with generally accepted actuarial principles;
or

- (c) that a report submitted in respect of a pension plan does not meet the requirements and qualifications of this Act, the regulations or the pension plan.

(3) An order under this section may include, but is not limited to, requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report.

Contents
of order

HEARING AND APPEAL

90.—(1) Where the Superintendent proposes to refuse to register a pension plan or an amendment to a pension plan or to revoke a registration, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant or administrator of the plan.

Notice of
proposal
to refuse
or revoke

(2) Where the Superintendent proposes to make an order under,

Notice of
proposal to
make order

- (a) subsection 43 (9) (repayment of money transferred out of pension fund);
- (b) subsection 44 (5) (repayment of money paid to purchase pension, deferred pension or ancillary benefit);
- (c) subsection 81 (6) (transfer of assets to pension fund of successor employer);
- (d) subsection 82 (6) (transfer of assets to new pension fund); or
- (e) section 88 (administration of pension plan or contravention of Act or regulation),

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and on any other person to whom the Superintendent proposes to direct the order.

(3) Where the Superintendent proposes to make or to refuse to make an order requiring an administrator to accept an employee as a member of a class of employees for whom a pension plan is established or maintained, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator, and the Superintendent

Notice of
proposal re
membership

shall serve or require the administrator to serve a copy of the notice and the written reasons on the employee.

Notice of
proposal to
attach terms
and
conditions
to approval
or consent

(4) Where the Superintendent proposes to refuse to give an approval or consent or proposes to attach terms and conditions to an approval or consent under this Act or the regulations, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the applicant for the approval or consent.

Notice of
proposed
wind up
order

(5) Where the Superintendent proposes to make an order requiring the wind up of a pension plan or declaring a pension plan wound up, the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and the employer, and the Superintendent may require the administrator to transmit a copy of the notice and the written reasons on such other persons or classes of persons or both as the Superintendent specifies in the notice to the administrator.

Notice
requiring
hearing

(6) A notice under subsection (1), (2), (3), (4) or (5) shall state that the person on whom the notice is served is entitled to a hearing by the Commission if the person delivers to the Commission, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

Power of
Superin-
tendent

(7) Where the person on whom the notice is served does not require a hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

Hearing

(8) Where the person requires a hearing by the Commission in accordance with subsection (6), the Commission shall appoint a time for and hold the hearing.

Power of
Commission

(9) At or after the hearing, the Commission by order may direct the Superintendent to carry out or to refrain from carrying out the proposal and to take such action as the Commission considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes, the Commission may substitute its opinion for that of the Superintendent.

Conditions

(10) The Commission may attach such terms and conditions to its order or to the registration as the Commission considers proper to give effect to the purposes of this Act.

Parties

(11) The Superintendent, the person who requires a hearing and such other persons as the Commission specifies are

parties to the proceeding before the Commission under this section.

(12) A party to a hearing shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the registration of the pension plan.

Opportunity
to show
compliance

(13) A party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination
of
documentary
evidence

(14) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person within a reasonable time after the matter in issue has been finally determined.

Release of
documentary
evidence

91.—(1) Where the Commission proposes to consider,

Notice of
proposal by
Commission

- (a) making a declaration that the Guarantee Fund applies to a pension plan;
- (b) making an order requiring the administrator of a pension plan to take specific action in relation to a report in respect of the pension plan; or
- (c) refusing to consent to a refund of contributions under section 64 (refunds),

the Commission shall serve notice of the proposal together with written reasons therefor on the administrator of the pension plan.

(2) The administrator shall transmit copies of the Commission's notice to such other persons or classes of persons or both as the Commission specifies in the notice to the administrator.

Additional
notices

(3) A notice by the Commission under subsection (1) shall state that the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission within thirty days after service of the notice under that subsection.

Representations

(4) An individual who is entitled to make representations to the Commission under subsection (3) shall be afforded an opportunity, during the period of time when representations

Examination
of
documentary
evidence

may be made, to examine any written or documentary evidence that will be produced or any report the contents of which will be considered by the Commission when the Commission considers its proposal.

Notice of
decision

(5) The Commission shall transmit a copy of its decision, together with written reasons therefor, to the administrator, the employer and every other person who made representations to the Commission in accordance with subsection (3).

Application
of
R.S.O. 1980,
c. 484

(6) The *Statutory Powers Procedure Act* does not apply in respect of a declaration, refusal or order mentioned in subsection (1) by the Commission.

Appeal
to court

92.—(1) A party to a proceeding before the Commission under section 80, 90 or 91 may appeal to the Divisional Court from the decision or order of the Commission.

Certified
copy of
record

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the prescribed fee, the Commission shall furnish the party with a certified copy of the record of the proceeding, including the documents received in evidence and the decision or order appealed from.

Quorum
and votes

93.—(1) Three members of the Commission constitute a quorum for the purposes of a proceeding before the Commission under section 90, and decisions in such proceedings require the vote of a majority of the members of the Commission present at the hearing in the proceeding.

Panels

(2) The Commission may sit in two or more panels simultaneously for the purposes of such proceedings.

Assignment

(3) The head of the Commission shall assign the members of the Commission to its panels and may change an assignment at any time.

Expiry of
member's
term of
office

(4) Where a proceeding is commenced before the Commission and the term of office on the Commission of a person sitting for the hearing expires or is terminated, other than for cause, before the proceeding has been disposed of but after evidence has been heard, the person shall be deemed to remain a member of the Commission for the purpose of completing the proceeding in the same manner as if his or her term of office had not expired or been terminated.

PENSION COMMISSION

Commission
continued

94.—(1) The Pension Commission of Ontario is continued.

(2) The Commission shall be composed of not fewer than five and not more than nine members appointed by the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council shall appoint the head and the deputy head of the Commission from among the members of the Commission. Head and deputy head

(4) The members of the Commission shall be appointed for terms of not more than three years and may be reappointed for further terms of not more than three years. Term of office

(5) If the head of the Commission is absent or if there is a vacancy in the office of head of the Commission, the deputy head shall act as and have all the powers of the head of the Commission. Authority of deputy head

(6) If both the head of the Commission and the deputy head are absent or if there are vacancies in the offices of head of the Commission and deputy head, the member of the Commission designated by the members of the Commission shall act as and have the powers of the head of the Commission. Acting head

(7) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission or in the offices of head or deputy head of the Commission. Vacancies

(8) A majority of the members of the Commission, including the head or deputy head of the Commission, constitutes a quorum. Quorum

(9) Such employees as are necessary to carry out the business of the Commission shall be appointed under the *Public Service Act*. Employees
R.S.O. 1980,
c. 418

(10) The members of the Commission shall be paid such remuneration and expenses as are fixed by the Lieutenant Governor in Council. Salary and expenses

95.—(1) The office of Superintendent of Pensions is continued. Superintendent

(2) The Superintendent shall be appointed by the Commission. Appointment

(3) The Superintendent is the chief administrative officer of the Commission. Chief administrative officer

Powers and
duties

(4) The Superintendent shall exercise the powers and perform the duties that are vested in or imposed upon the Superintendent by this Act, the regulations and the Commission.

Delegation
of powers
and duties

(5) The Superintendent may delegate in writing any power or duty of the Superintendent under this Act to any employee of the Commission, subject to the approval of the Commission and subject to any limitation or condition set out in the delegation.

Reciprocal
agreements

96.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

- (a) enter into agreements with the authorized representatives of another province or the Government of Canada to provide for the reciprocal application and enforcement of pension benefits legislation, the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension supervisory authorities;
- (b) authorize a Canadian association of pension supervisory authorities to carry out such duties on behalf of the Commission as the Commission may require; and
- (c) delegate to a pension supervisory authority or the government of a designated province such functions and powers under this Act as the Commission may determine and the Commission may accept similar delegations of functions and powers from a pension supervisory authority or the government of a designated province.

Applicable
law

(2) Where a pension plan required to be registered in Ontario is registered in a designated jurisdiction, the Commission by order may limit the application of this Act and the regulations to the pension plan and authorize the application of the law of the designated jurisdiction in respect of the pension plan.

Duty of
Commission

97. It is the duty of the Commission,

- (a) to administer this Act and the regulations;
- (b) to promote the establishment, extension and improvement of pension plans throughout Ontario;
- (c) to advise the Minister in respect of the business of the Commission; and

- (d) to make recommendations to the Minister in respect of pension plans.

98.—(1) It is a function of the Commission to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

Research

(2) The Commission may request an employer or an administrator or a member of a pension plan to provide information necessary to compile the statistical information and such persons shall comply with the request within a reasonable period of time.

Provision of information

(3) The Commission shall use the information only for the purpose of compiling the statistical information.

Confidentiality

99.—(1) The Superintendent may require an employer, an administrator or any other person to supply to the Commission or the Superintendent such information in such form as is acceptable to the Superintendent and within such time limits as specified for the purpose of ascertaining whether or not this Act and the regulations are being complied with.

Information

(2) A person to whom a request is made under subsection (1) shall comply with the request within the time specified by the Superintendent or other person designated by the Superintendent.

Idem

100. Every person entrusted by the Commission with the custody or control of money in the course of employment shall give security in the manner and form provided by the *Public Officers Act*.

Security

R.S.O. 1980,
c. 415

101. No member of the Commission or of the staff of the Commission is personally liable for anything done in good faith in the execution or intended execution of a duty or authority under this Act or the regulations or for alleged neglect or default in the execution in good faith of such a duty or authority.

Liability of members and employees of Commission

102. The Provincial Auditor shall examine annually the accounts and financial transactions of the Commission.

Audit

103.—(1) The Commission shall report annually to the Minister on the business of the Commission.

Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Idem

GENERAL

Pension
agency

104. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefits under this Act.

Transitional

105. Every pension plan that was registered and that continued to be qualified for registration under the *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, immediately before the coming into force of this Act, shall be deemed to be registered upon the coming into force of this Act.

Extension
of time

106. The Commission or the Superintendent may extend any prescribed time limit before or after the expiration of the time if satisfied that there are reasonable grounds for applying for the extension, and may give such directions as the Commission or the Superintendent considers proper consequent upon the extension.

Interpre-
tation,
persons

107.—(1) The persons referred to in subsections (3) to (5) and (8) to (10) are the following:

1. The Superintendent.
2. Any person designated by the Superintendent or the Commission.

Interpre-
tation,
purposes

(2) The purposes mentioned in subsections (3) to (5) and (10) are the following:

1. The administration of this Act and the regulations.
2. The administration of the Guarantee Fund.
3. The enforcement of any section of this Act or the regulations.
4. The exercise of a power or the carrying out of a duty under this Act or the regulations.
5. The carrying out of an order made under this Act.

Entry

(3) For a purpose mentioned in subsection (2), a person mentioned in subsection (1) may enter and have access to, through and over any business premises, where the person has reasonable grounds to believe books, papers, documents or things are kept that relate to a pension plan or pension fund.

(4) A person mentioned in subsection (1) may make examinations, investigations and inquiries and may require the production of any book, paper, document or thing related to a pension plan or pension fund. Examinations

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies or extracts related to an examination, investigation or inquiry for a purpose mentioned in subsection (2). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) who is making an examination, investigation or inquiry may, upon giving a receipt therefor, remove any books, papers, documents or things relating to the subject-matter of the examination, investigation or inquiry for the purpose of making copies of the books, papers, documents or things, but the copying shall be carried out with reasonable dispatch and the books, papers, documents or things shall be returned forthwith after the copying is completed. Removal of books, etc., for copying

(9) A copy of any written or recorded material found in an examination, investigation or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution for all purposes for which the original would have been admissible. Copies

(10) If an occupier of premises, Application for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing the production of which is requested for the purpose of an examination, investigation or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for an inspection order under section 109.

Identification (11) A person exercising a power under this section shall provide identification at the time of entry.

Obstruction **108.**—(1) No person shall hinder or obstruct a person mentioned in subsection 107 (1) who is lawfully carrying out a duty under this Act.

Private residence (2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Order by justice of the peace **109.**—(1) Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations or inquiries, and

(iii) to make, take and remove photographs, samples, copies or extracts related to an examination, investigation or inquiry,

or to do any of such things, for a purpose mentioned in subsection 107 (2); and

(b) that a person mentioned in subsection 107 (1),

(i) has been denied entry to the premises,

(ii) has reasonable grounds to believe that entry to the premises will be denied,

(iii) has been instructed to leave the premises,

(iv) has been obstructed, or

(v) has been refused production of any thing related to an examination, investigation or inquiry,

by the occupier of the premises,

the justice of the peace may issue an inspection order authorizing a person mentioned in subsection 107 (1) to act as mentioned in clause (a) in respect of the premises specified in the inspection order, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) An inspection order issued under this section shall be executed between 6 a.m. and 9 p.m. standard time unless the justice of the peace otherwise authorizes in the order.

Execution of order

(3) An inspection order issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the inspection order is issued.

Expiry of order

(4) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises.

Ex parte application

110.—(1) Every person who contravenes this Act or the regulations is guilty of an offence.

Offence

(2) Every person who contravenes an order made under this Act is guilty of an offence.

Idem

111.—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$25,000.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed is \$100,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is guilty of an offence under this Act, an officer, official, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$25,000.

Officers, etc.

(4) Where a person is convicted of an offence related to the failure to submit or make payment to a pension fund or to an insurance company, the court that convicts the person may, in addition to any fine imposed, assess the amount not submitted or not paid and order the person to pay the amount to the pension fund or to the insurance company.

Order for payment

(5) An order for payment under subsection (4), exclusive of the reasons therefor, may be filed in the Supreme Court and is thereupon enforceable as an order of that court.

Enforcement

Time limit

(6) No proceeding under this Act shall be commenced after five years after the date when the subject-matter of the proceeding occurred or is alleged to have occurred.

Power to restrain

112. Where a provision of this Act or the regulations or an order or approval of the Commission or the Superintendent under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, the contravention may be restrained by action at the instance of the Commission or of the administrator of a pension plan affected by the contravention.

Service

113.—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is to be given, served or delivered at his or her last known address.

Deemed service

(2) A notice, order or other document sent by registered mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive the notice, order or other document, or did not receive it until a later date, through absence, accident, illness or other cause beyond his or her control.

Time for actions by administrator

114. An administrator of a pension plan who is required to take an action under this Act or the regulations shall take the action within the prescribed period of time.

Conflict

1986, c. ...

115. In the event of a conflict between this Act and any other Act, this Act prevails unless the other Act states that it is to prevail over the *Pension Benefits Act, 1986*.

Regulations

116.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing the times for filing or the last dates for filing of documents that are required to be filed under this Act;
- (c) prescribing reports that shall be submitted to the Commission, the contents and the method of preparation of the reports and the persons or classes of persons by whom the reports must be prepared;

- (d) prescribing pension benefits that are not guaranteed by the Guarantee Fund;
- (e) prescribing assessments for the purposes of the Guarantee Fund and prescribing the classes of employers that shall pay such assessments;
- (f) prescribing procedures that shall govern the establishment of advisory committees and the appointments of members of advisory committees;
- (g) prescribing fees that shall be paid for copies of documents provided by the Commission;
- (h) prescribing the methods of calculating the values of assets and liabilities of pension funds;
- (i) prescribing criteria that must be complied with before any surplus may be paid out of a pension fund;
- (j) prescribing the rate or the method of determining the rate at which an employer shall pay moneys due from the employer under this Act on the winding up of a pension plan, and prescribing the manner of payment and to whom the payments shall be made;
- (k) regulating or prohibiting the investment of moneys from pension funds and prescribing investments or classes of investments in which such moneys may be invested;
- (l) prescribing requirements for retirement savings contracts and life annuity contracts between members of pension plans and trustees to whom administrators may make payment when required in accordance with this Act, requiring such trustees to file specimens of such contracts before such payments may be made, and authorizing the Superintendent to refuse to file a specimen contract that does not meet the requirements;
- (m) prescribing the rate of interest and the method of calculating interest payable under this Act or the regulations, if such rate or method is not specified in the requirement for payment of the interest;
- (n) prescribing forms and providing for their use;

- (o) prescribing the time within which any document specified in the regulations that this Act requires to be given, transmitted, filed or served shall be given, transmitted, filed or served;
- (p) prescribing requirements that shall be complied with in the administration of a pension plan;
- (q) prescribing records that shall be kept by the administrator of a pension plan and the period of time for which such records shall be retained by the administrator;
- (r) requiring the audit of pension plans or classes of pension plans and pension funds and classes of pension funds and prescribing the persons or classes of persons who may perform the audits and the manner of performing the audits;
- (s) prescribing the manner of determining the portion of a pension benefit, pension, deferred pension or ancillary benefit that is attributable to employment after the 31st day of December, 1986;
- (t) governing the wind up of pension plans or classes of pension plans and prescribing priorities or the method of determining priorities on wind up, including priorities in allocation of assets;
- (u) governing the receiving, holding and disbursing of pension benefits by any agency established or designated under this Act;
- (v) exempting any pension plan, class of pension plan or class of employees from the application of this Act or the regulations or from any section of this Act or the regulations.

Scope of
regulations

(2) A regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of
codes in
regulations

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with a code, formula, standard or procedure so adopted.

Repeals

117. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980 and the *Pension Benefits Amendment Act, 1983*, being chapter 2, are repealed.

118. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

119. The short title of this Act is the *Pension Benefits Act*, Short title
1986.

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Bill 171



An Act to amend the Power Corporation Act

Mr. Gordon

1st Reading December 9th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that Ontario Hydro shall not build any new nuclear power facilities.

Bill 171

1986

An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

23a. The Corporation shall not commence construction of any new facilities to generate and produce nuclear power.

No new
nuclear
power
plants

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Power Corporation Amendment Act, 1986*.

Short title

Bill 172

An Act respecting Environmental Rights in Ontario

Mrs. Grier

<i>1st Reading</i>	December 10th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	



EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

Bill 172**1986****An Act respecting Environmental Rights in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I**INTERPRETATION AND PURPOSE**

1. In this Act,

Definitions

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person, or
- (e) render any property or plant or animal life unfit for use by people,

and “contamination” has a corresponding meaning;

“Court” means the Supreme Court of Ontario;

“degradation” refers to any destruction or significant decrease in the quality of the environment or the public trust therein

other than a change resulting from contamination and “degrade” has a corresponding meaning;

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario’s public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

3.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Written request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation.

Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against,

Right of action

(a) any person who is responsible for the activity; and

(b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to,

Court may determine standard

(a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;

- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damages

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best inter-

ests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary. Injunction, etc.

8.—(1) The Court may, Reference

- (a) on the motion of any party; or
- (b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending

final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

9.—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his or her findings and opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to the inspector.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS *AMICUS CURIAE*, CLASS ACTIONS

Parties,
etc.

10. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

11.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class Judgment
action for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;

“proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section. Notice of
proposed
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, Submissions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where
instrument
may be
issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

(a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;

(b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of
instrument

(7) Any person may make an application to the Board requesting the Board to review an existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary
hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of
hearing

(10) Where the appropriate board holds a hearing under subsection (4) or (7), the appropriate board shall,

- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
- (b) cause notice to be given of the hearing,
 - (i) to the proper authority,
 - (ii) to any person who submitted notice to the proper authority under subsection (3),
 - (iii) to any person who submitted notice to the Board under subsection (7),
 - (iv) to any person as the appropriate board may direct, and
 - (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations, etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1987 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public notice

Report (3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Notice of proposed regulation **14.—**(1) In this section, “regulation-making authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Publication (2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.

Effect of contravention (3) A regulation filed in contravention of subsection (2) does not come into effect.

PART V

ACCESS TO INFORMATION

Definition **15.—**(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.

Right to information (2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to examine (3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem (4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under the Minister’s authority relating to any operation subject to an Act

listed in the Schedule under the Minister's jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his or her opinion, the information sought to be disclosed contains,

Where
disclosure
may be
reduced

- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;
- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
 - (i) vital statistics,
 - (ii) background personal information,
 - (iii) medical, criminal, educational or employment records or history,
 - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
 - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
 - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

Notice

(6) Where the designated Minister, under subsection (5), refuses an application for disclosure of information, he or she shall, within twenty days, so inform the applicant, together with written reasons thereof, and the Minister shall inform the applicant of the applicant's right of appeal to the Board.

Hearing

(7) Any applicant may, within fifteen days of receipt of a notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

Idem

(8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations without notice and conducting hearings in private, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

Onus

(9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

Order

(10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

- (a) order the disclosure of all or part of the information sought to be disclosed; or
- (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

Appeal

(11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

Definition

16.—(1) In this section, "Fund" means the Environmental Hearing Assistance Fund.

(2) The Lieutenant Governor in Council may establish a fund to be known as the Environmental Hearing Assistance Fund.

(3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

(4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

(5) A person may apply under subsection (4) only where that person,

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate.

(7) No person is precluded from applying under subsection (4) by reason only that he has previously received financial assistance under subsection (6).

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate.

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including,

- (a) legal fees;

- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc.,
by employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

19. Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail.

Conflict
R.S.O. 1980,
c. 141
20. This Act binds the Crown.

Crown
21. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
22. The short title of this Act is the *Ontario Environmental Rights Act, 1986*.

Short title

SCHEDULE

- Conservation Authorities Act*
- Consolidated Hearings Act, 1981*
- Drainage Age*
- Environmental Assessment Act*
- Environmental Protection Act*
- Mining Act*
- Niagara Escarpment Planning and Development Act*
- Ontario Waste Management Corporation Act, 1981*
- Ontario Water Resources Act*
- Pesticides Act*
- Pits and Quarries Control Act*
- Planning Act, 1983*

Bill 173

An Act to amend the Theatres Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 11th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

SECTION 1. The subsections being repealed provide that the Director shall report annually to the Minister. The reporting duties are being transferred to the chairman.

SECTION 2. Section 3 of the Act currently provides that the Director shall be the chairman of the Board. The effect of the proposed amendment would be to have a board member, appointed by the Lieutenant Governor in Council, as chairman. The chairman will report annually to the Minister. This is complementary to section 1 of the Bill.

Bill 173

1986

An Act to amend the Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 (3) and (4) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 56, section 2, are repealed.

2. Subsections 3 (1) and (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 56, section 3, are repealed and the following substituted therefor:

(1) The board known as the Ontario Film Review Board is continued and shall consist of a chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint. Board

(2) The Lieutenant Governor in Council may designate one member of the Board as chairman and one or more members of the Board as a vice-chairman. Chairman, vice-chairman

(2a) The chairman of the Board shall provide the Minister with an annual report on the activities of the Board. Annual report

(2b) Upon receiving a report under subsection (2a), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-ment

4. The short title of this Act is the *Theatres Amendment Act*, 1986. Short title

Bill 174

An Act to amend the Proceedings Against the Crown Act

The Hon. I. Scott
Attorney General

1st Reading December 11th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Section 25 of the Act permits garnishment against the Crown. The amendment provides that the garnishment is effective against only the amounts payable to the debtor by the administrative unit served with notice of garnishment. The amendment also enlarges the authority to make regulations in order to provide for a form of statement of particulars, to provide for the method of service and to extend the response time to an additional period of not more than thirty days.

Bill 174

1986

An Act to amend the Proceedings Against the Crown Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 25 (2a) of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1985, chapter 6, section 16, is amended by adding at the end thereof “subject to section 7 of the *Wages Act*”.

(2) Subsection 25 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 88, section 1 and amended by the Statutes of Ontario, 1985, chapter 6, section 16, is repealed and the following substituted therefor:

(3) A garnishment is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of garnishment to the person named in the notice of garnishment. Limitation

(4) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the method of service on the Crown of notices of garnishment in place of the method prescribed in section 14;
- (b) providing that a notice of garnishment issued against the Crown is not effective unless a statement of particulars in the prescribed form is served with the notice of garnishment;
- (c) providing that a notice of garnishment issued against the Crown shall be deemed to be served on the day that is the number of days specified in the regulation after the actual date of service or after the effective date of service under the rules of the

court that issued the notice of garnishment, as the case may be, but the regulation shall not specify more than thirty days as the number of days;

- (d) prescribing the form of statement of particulars for the purposes of this section.

Interpretation

R.S.O. 1980,
cc. 106, 235

(5) In this section, "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Proceedings Against the Crown Amendment Act, 1986*.

Bill 175

An Act to ban Sunday racing and intertrack wagering at Greenwood Raceway and to provide for public input into decisions of the Ontario Racing Commission

Ms Bryden

1st Reading December 11th, 1986

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTION 2. Racing and intertrack wagering on Sunday is banned.

SECTION 3. A mechanism is set up requiring the Ontario Racing Commission to hold a public hearing and consider any submissions of interested persons residing near Greenwood Raceway before making a decision concerning the Raceway that may affect the quality of those persons' lives.

SECTION 4. A decision of the Commission under section 3 is made subject to review by an independent adjudicator, whose decision is final.

SECTION 5. Self-explanatory.

SECTION 6. Self-explanatory.

SECTION 7. The *Racing Commission Act* is amended to provide that the Commission be composed of seven members, of whom only three can be representatives of the racing industry. Of the others, one must live within one kilometre of the Greenwood Raceway, two must live within four kilometres of a race track in Ontario and the seventh, the chairman, must be independent of the industry and the residents living in the vicinity of race tracks.

Bill 175

1986

**An Act to ban Sunday racing and
intertrack wagering at Greenwood Raceway
and to provide for public input into decisions
of the Ontario Racing Commission**

Whereas, the Greenwood Raceway is the only race track in Ontario located in a large, high density, urban residential area; and whereas the people who live in the vicinity of the Greenwood Raceway are seriously disadvantaged and suffer a deterioration in the quality of their lives as a result of the parking, traffic and transit congestion and by the noise and litter that the operation of the Greenwood Raceway causes to them close to 300 days each year; and whereas the Greenwood Raceway has had a tradition of not operating on Sunday since it opened more than 100 years ago; and whereas it is in the public interest to ensure that the people who live in the vicinity of the Greenwood Raceway are treated fairly and justly by being permitted to have Sundays free of racing activities and to have quiet enjoyment of their homes and property on that day; and whereas the people who live in the vicinity of the Greenwood Raceway and of other race tracks are not given an opportunity to affect the decisions of the Ontario Racing Commission regulating the days and hours of racing and intertrack wagering for race tracks in Ontario even though those decisions have a major impact on those people's lives;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Commission" means the Ontario Racing Commission established under the *Racing Commission Act*;

R.S.O. 1980,
c. 429

"Raceway" means the Greenwood Raceway, located on Queen Street East in the City of Toronto.

No Sunday
race track
activities

2. There shall be no racing or intertrack wagering activities carried on at the Raceway on Sundays.

Opportunity
to be
heard

3.—(1) Before the Commission makes any decision concerning the operation of the Raceway that may affect the quality of life of the persons who live within one kilometre of the Raceway, it shall hold a public hearing and give full consideration to any oral or written submissions concerning the proposed decision made at that hearing by persons who live within one kilometre of the Raceway and by representatives of any organizations representing those persons.

Notice of
hearing

(2) At least three weeks before holding a public hearing under subsection (1), the Commission shall publish a notice of public hearing in at least two daily newspapers having general circulation in Toronto and shall post the notice outside the entrance to the Raceway.

Contents of
notice of
hearing

(3) The notice published and posted under subsection (2) shall state,

- (a) the decision that is proposed to be made;
- (b) the date, time and place for the hearing; and
- (c) that persons who live within one kilometre of the Raceway and representatives of organizations representing those persons are invited to make oral or written representations to the Commission concerning the proposed decision at the hearing.

Reasons for
decision

(4) The Commission shall give written reasons for any decision made under this section and shall make a copy of those reasons available to any member of the public who so requests.

Notice of
decision

(5) Where, after holding a public hearing under subsection (1), the Commission makes a decision concerning its proposal, it shall publish a notice of its decision in at least two daily newspapers having general circulation in the City of Toronto and shall post a notice of its decision outside the entrance to the Raceway and that notice shall inform persons of where they may obtain copies of the reasons for the decision.

Appeal

4.—(1) Where, within thirty days after a decision of the Commission made under section 3 is published and posted, at least ten persons who live within one kilometre of the Raceway notify the Chief Justice of the Supreme Court of Ontario in writing of their desire to have the decision reviewed, there

shall be a review of the decision and the Chief Justice shall appoint an adjudicator to carry out that review.

(2) An adjudicator appointed under subsection (1) shall by whatever means the adjudicator deems appropriate consider the position of the Commission, representatives of the racing industry, the persons who requested the review and any other persons who live within one kilometre of the Raceway and shall make whatever decision he or she considers appropriate.

Adjudicator
to make
decision

(3) An adjudicator appointed under subsection (1) may attempt to mediate or settle any outstanding matters while conducting a review.

Adjudicator
may mediate

(4) A decision of an adjudicator is final.

Decision
final

(5) The *Statutory Powers Procedure Act* does not apply to a review by an adjudicator under this Act.

Non-
application of
R.S.O. 1980,
c. 484

(6) The Minister responsible for administering the *Racing Commission Act* shall pay an adjudicator appointed under subsection (1) such fees and expenses as are prescribed by the regulations.

Fees of
adjudicator
R.S.O. 1980,
c. 429

5. The Lieutenant Governor in Council may make a regulation prescribing the fees and expenses payable to an adjudicator under this Act.

Regulations

6. The provisions of this Act are in addition to the provisions of the *Racing Commission Act*, and in the event of a conflict between a provision of that Act and a provision of this Act, the provision of this Act shall prevail.

Conflict

7.—(1) Section 2 of the *Racing Commission Act*, being chapter 429 of the Revised Statutes of Ontario, 1980, is amended by striking out “not fewer than three and not more than” in the third and fourth lines.

(2) The said section 2 is further amended by adding thereto the following subsection:

(2) Four of the persons appointed under subsection (1) shall be persons who are not connected with the horse racing industry and of those,

Idem

- (a) one shall be a person who resides within one kilometre of the Raceway;
- (b) two shall be persons who reside within four kilometres of a race track in Ontario; and

- (c) one shall be a person who is independent of the horse racing industry and of the persons who live in the vicinity of race tracks in Ontario.

(3) Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Chairman
and vice-
chairman

(1) The person appointed under clause 2 (2) (c) shall be the chairman and the Lieutenant Governor in Council shall name one of the other members to be the vice-chairman.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Greenwood Raceway Act, 1986*.

20N
3
56

Commenced
Publication

Bill 176

An Act to amend the Nursing Homes Act

The Hon. M. Elston
Minister of Health



1st Reading December 16th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides that the fundamental principle to be applied in interpreting the Act is that a nursing home is primarily the home of its residents. The Bill also sets out additional principles to be used in interpreting the Act.

The Minister is given discretion to consider the effect of the concentration of ownership of nursing homes and the balance between profit oriented and non-profit oriented nursing homes in deciding whether to grant a nursing home licence.

The Bill permits the Director to undertake to issue a licence to an applicant for a licence subject to the applicant satisfying specified conditions.

The Act now prohibits transfers of licences. The Bill regulates the surrender of licences and their issuance to new licensees and provides for the scrutiny of transfers by indirect means and share transfers of corporations that own licences.

The Bill requires persons who suspect that a resident has or may suffer harm as a result of unlawful conduct, neglect or improper or incompetent care or treatment to report that belief to the Director.

The Bill provides for the establishment in each nursing home of a residents' council, composed of residents and their representatives and a residents' council advisory committee, composed of elected and appointed members. The advisory committee is to advise residents, to receive and investigate complaints, to assist residents in dealings with licensees, to review the operations of nursing homes, to report to the residents' council and to report their concerns or recommendations to the Minister. The Minister is authorized to hire residents' council advisors to assist residents' council advisory committees.

The Bill provides that licensees shall post financial statements respecting the operation of the nursing homes.

A number of other amendments, including housekeeping amendments, are included in the Bill.

Bill 176

1986

An Act to amend the Nursing Homes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 55, section 223, is further amended by adding thereto the following clauses:

(aa) “committee” means a residents’ council advisory committee;

.

(ba) “equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

.

(j) “security interest” means an agreement between a person and a licensee that secures the licensee’s payment or performance of an obligation by giving the person an interest in the licence.

(2) The said section 1 is further amended by adding thereto the following subsections:

(2) A person shall be deemed to have a controlling interest in a corporation if the person alone or with an associate directly or indirectly beneficially owns or controls,

Controlling
interest

(a) issued and outstanding equity shares in the corporation in an amount to permit the person to direct the management and policies of the corporation; or

(b) 10 per cent or more of the issued and outstanding equity shares in the corporation.

Associates

(3) One person shall be deemed to be an associate of another person if,

- (a) one person is a corporation of which the other person is an officer or director;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled directly or indirectly by the other person;
- (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other person;
- (e) both persons are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both persons are associates within the meaning of clauses (a) to (e) of the same person.

Calculating shares

(4) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries.

2. The said Act is amended by adding thereto the following section:

Fundamental principle

1a.—(1) The fundamental principle to be applied in the interpretation of this Act and the regulations is that a nursing home is primarily the home of its residents and as such it is to be operated in such a way that the physical, psychological, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability, to the physical, psychological, social, cultural and spiritual needs of others.

Further principles

(2) Without restricting the generality of the foregoing, this Act and the regulations are to be interpreted so as to advance the objective that nursing homes be operated in accordance with the following principles:

1. Each resident shall be treated with dignity, courtesy and respect.
2. Each resident shall be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
3. Each resident shall have a reasonable opportunity to keep in his or her room and display personal possessions, pictures and furnishings, in keeping with space limitations, safety requirements and other residents' rights.
4. Each resident shall have the right to consent to the giving or refusing of medical treatment or medication in accordance with the law and shall be given the opportunity to obtain an independent medical opinion concerning any proposed medical treatment or medication.
5. Each resident shall have the opportunity to participate fully in making any decision and obtaining an independent medical opinion with respect to any decision concerning his or her admission, discharge or transfer to or from a nursing home.
6. Each resident shall have the opportunity to communicate in confidence, to receive visitors and to consult in private with any other person without interference.
7. Each resident shall have the opportunity to form friendships, to enjoy relationships and to participate in the residents' council.
8. Each resident shall have the opportunity to pursue his or her social, cultural and other interests and to develop to his or her potential.
9. Each resident shall have the right to be informed of any law, rule or policy affecting the operation of the nursing home and to express his or her opinion concerning the operation of the nursing home without fear of reprisal.
10. Each resident shall respect the rights of other persons in the nursing home and shall treat other persons in the nursing home with dignity, courtesy and respect.

Principles
implied
in contracts

(3) Every contract relating to the admission of a resident to a nursing home shall be deemed to include the undertaking of the licensee to operate the home in accordance with the principles set forth in subsections (1) and (2).

Copies to
residents

(4) Every licensee shall post a copy of subsections (1), (2) and (3) in a prominent place in the nursing home and shall give a copy of them to each resident and a representative of the resident, if any, when the resident is admitted to the nursing home.

Transition

(5) Every licensee shall forthwith after the coming into force of this Act give a copy of subsections (1), (2) and (3) to every person who is a resident at that time and to a representative of that person, if any.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “subsection (2)” in the first line and inserting in lieu thereof “the following subsections”.

(2) Subsection 4 (2) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(3) Subsection 4 (3) of the said Act is amended by striking out “Notwithstanding subsection (1)” in the first line.

(4) Subclause 4 (4) (d) (ii) of the said Act is amended by striking out “or” and inserting in lieu thereof “and”.

(5) Section 4 of the said Act is amended by adding thereto the following subsection:

Idem

(4a) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area, the Minister shall also take into account,

(a) the effect that granting the licence would have on the concentration of ownership of nursing homes in Ontario; and

(b) the effect that granting the licence would have on the balance between non-profit and profit-oriented nursing homes in Ontario.

(6) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:

Grounds for
refusal

(5) Subject to section 7, the Director may refuse to issue a licence where in the Director's opinion,

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity;
- (c) the applicant or, where the applicant is a corporation, its officers or directors or the persons with a controlling interest in it are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services; or
- (d) the past conduct of the applicant, or where the applicant is a corporation, of its officers, directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home will be operated in a manner that is prejudicial to the health, safety or welfare of its residents.

(7) Subsection 4 (8) of the said Act is repealed.

4. The said Act is further amended by adding thereto the following sections:

4a.—(1) The Director may undertake to issue a licence to an applicant on condition that the applicant agrees to satisfy the conditions specified by the Director.

Undertake to
issue licence

(2) Where the Director determines that the applicant has complied with the specified conditions, the Director shall issue the licence.

Issue licence,
if conditions
met

(3) Where the Director determines that the applicant has not complied with the specified conditions, the Director by written notice to the applicant may propose to cancel the undertaking.

Notice
to cancel
undertaking

(4) The applicant may submit to the Minister a written request for review asking that the Minister extend the undertaking and amend its conditions.

Request
for review

Minister's
decision

(5) Where the Minister receives a request for review within fifteen days after delivery of the notice under subsection (3), the Minister may extend the undertaking and amend its conditions or may cancel the undertaking.

Undertaking
cancelled

(6) Where the Minister does not receive a request for review within fifteen days after delivery of the notice under subsection (3), the undertaking shall be deemed to be cancelled.

Surrender
and issue
of licence

4b.—(1) Where a licensee notifies the Director that the licensee intends to surrender a licence to the Director on condition that the Director issue in its place a licence to a specified person, the specified person may apply for the issuance of the licence under this Act.

Idem

(2) Subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications to an application for a licence under subsection (1).

Idem

(3) Upon receiving notice that the Director intends to approve an application under subsection (1), the licensee shall surrender the licence and the Director shall issue a licence to the applicant.

Share
transfer
R.S.O. 1980,
c. 466

4c.—(1) Where a corporation that is a private company as defined in the *Securities Act* is a licensee, it shall not permit an issue or transfer of equity shares of its capital stock that has the effect of changing the ownership or controlling interest in the corporation without the prior approval of the Director.

Idem

(2) In deciding whether to approve an issue or a transfer of shares under subsection (1), the Director shall treat the corporation as proposed to be constituted after the transfer as if it were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Duty of
corporation
to notify
Director

4d.—(1) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation.

Idem

(2) Where a corporation has an interest in a licence, and the corporation or its officers or directors have reason to believe that an issue or transfer of equity shares of its capital stock or the happening of a condition by which shares of its capital stock acquire voting rights results or may result in a person acquiring a controlling interest in the corporation, the person shall so notify the Director forthwith.

(3) The Director from time to time, in writing, may direct a corporation that has an interest in a licence or its officers or directors to provide the names and addresses of all of the officers and directors of the corporation and a statement concerning the ownership or beneficial ownership of equity shares of capital stock in the corporation, which statement shall contain the information that in the opinion of the Director is reasonably necessary to enable the Director to determine,

Statement
required

- (a) what persons, if any, have a controlling interest in the corporation; and
- (b) what persons, if any, own or beneficially own directly or indirectly the persons or a controlling interest in the persons mentioned in clause (a).

4e.—(1) A person who has a security interest in a licence shall not exercise that interest without the approval of the Director if exercise of the interest would change the ownership or controlling interest in the licence.

Exercise
of security
interest

(2) In deciding whether to approve an exercise of a security interest under subsection (1), the Director shall treat the person seeking to exercise the interest as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

4f.—(1) A licensee shall not enter into a contract whose effect is to change the management of a nursing home or the ownership or controlling interest in a licence without the approval of the Director.

Management
contracts

(2) In deciding whether to approve a contract described in subsection (1), the Director shall treat the person who would take over the management of the nursing home or the ownership or controlling interest in the licence under the contract as if the person were an applicant for a licence and subsections 4 (1), (2) and (4a) and clauses 4 (5) (b), (c) and (d) apply with necessary modifications.

Matters
to be
considered

5. Clauses 5 (d) and (e) of the said Act are repealed and the following substituted therefor:

- (d) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is not being or will not be operated in accordance with the law and with honesty and integrity;

- (e) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the licensee, officers, directors or persons are not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services;
- (f) the conduct of the licensee or, where the licensee is a corporation, its officers or directors or the persons with a controlling interest in it affords reasonable grounds for belief that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;
- (g) the licensee has ceased operating the nursing home for a period of at least six months and is not taking reasonable steps to prepare the nursing home to re-open;
- (h) the licensee is a corporation described in subsection 4c (1) that has permitted an issue or transfer contrary to that subsection;
- (i) a corporation or its officers or directors have failed to make a report or statement to the Director, contrary to section 4d;
- (j) a person who has a security interest in a licence has exercised that interest contrary to subsection 4e (1) without the approval of the Director; or
- (k) the licensee has entered into a contract described in subsection 4f (1) without the approval of the Director.

6. Section 7 of the said Act is amended by adding thereto the following subsections:

Idem

(2a) A licensee who requires a hearing shall provide proof with the notice requiring a hearing that the licensee has mailed or delivered to the residents' council and has posted in a prominent place in the nursing home a copy of the Director's notice with written reasons therefor and a copy of the notice requiring a hearing.

(4a) Before the Board hears a matter it must be satisfied that the applicant or licensee has been given a reasonable opportunity to comply with all the lawful requirements for the issue or retention of the licence where it would be just and reasonable to do so. Opportunity to comply

7.—(1) Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

(1) The following are parties before the Board under this Act, Parties

- (a) the Director;
- (b) the applicant or the licensee who has required the hearing;
- (c) an agent for the residents' council; and
- (d) any other person the Board may specify.

(2) Subsection 8 (2) of the said Act is repealed and the following substituted therefor:

(2) The Board may permit any person who is not a party before it, including a resident, a representative of a resident, an employee of a nursing home or any other person who may be affected by its decision, to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent. Submissions

(3) Subsection 8 (3) of the said Act is amended by striking out "An applicant or licensee who is" in the first line and by inserting after "subsection (1)" in the second line "and a person who is permitted to make submissions to the Board under subsection (2)".

(4) Subsection 8 (7) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

8. Section 11 of the said Act is repealed.

9. Subsection 12 (3) of the said Act is amended by inserting after "revoked" in the first line "and the revocation becomes final or where the nursing home is otherwise being operated without a licence".

10.—(1) Subsection 13 (2) of the said Act is amended by striking out “reduction in” in the second line and inserting in lieu thereof “reducing or increasing” and by striking out “reduction” in the fourth line and inserting in lieu thereof “reducing or increasing”.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Agreement
for extra
services

(3) The Minister may enter into an agreement with a licensee for the provision of services in addition to those provided for under this Act and the regulations.

Copy to
residents'
council

(4) Upon entering into an agreement with the Minister under subsection (3), the licensee shall provide a copy of the agreement to the residents' council.

11.—(1) Section 14 of the said Act is amended by striking out “or” at the end of clause (b) and by adding thereto the following clauses:

- (d) for services entered into under an agreement described in subsection 13 (3), the amount provided for by the agreement;
- (e) for services not mentioned in clauses (a) through (c) that are designated by the regulations, the amount prescribed by the regulations; or
- (f) for services not mentioned in clauses (a) through (e), the amount provided for under written agreements for those services between the licensee and the individual residents.

(2) The said section 14 is further amended by adding thereto the following subsection:

Idem

(2) The Director may permit a licensee to charge a specific amount greater than the amount prescribed by the regulations for a service described in clause (1) (e) where the licensee demonstrates to the Director that the actual cost of providing the service is greater than the amount prescribed by the regulations.

12. Section 15 of the said Act is repealed and the following substituted therefor:

Recovery
of excess
payment

15.—(1) Where any payment referred to in clause 14 (1) (a) or (d) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14

or the service has not been rendered or has been inadequately rendered, the Minister may,

- (a) withhold payments due to the licensee to recover the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) bring an action to recover from the licensee that amount, with costs, by action in a court of competent jurisdiction.

(2) Where any payment referred to in clause 14 (1) (b), (c), ^{Idem} (e) or (f) is accepted by or on behalf of a licensee and the payment exceeds the amount permitted under section 14, the service has not been rendered or has been inadequately rendered or in the case of a service described in clause 14 (1) (f) there was no written agreement, the Minister may,

- (a) order the licensee to pay back to the person from whom it was accepted the excess payment or the amount for which no service or inadequate service was rendered; or
- (b) withhold payments due to the licensee for the purpose of recovering the excess payment or the amount for which no service or inadequate service was rendered and pay the amount recovered to the person from whom it was accepted by or on behalf of the licensee.

13. Subsection 16 (2) of the said Act is amended by inserting after “inspector” wherever it occurs “and residents’ council advisor”.

14.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

(1) An inspector without a warrant at any time may enter upon the premises, including the business premises, of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with. ^{Inspection}

(2) Subsection 17 (2) of the said Act is amended by striking out “may at any reasonable time” in the fourth line and inserting in lieu thereof “without a warrant at any reasonable time may”.

(3) Section 17 of the said Act is amended by adding thereto the following subsection:

Warrant

(2a) No inspector shall enter any room or place that is not in a nursing home and that is actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(4) Subsection 17 (3) of the said Act is repealed and the following substituted therefor:

Powers on
inspection

(3) Upon an inspection under this section, the inspector,

- (a) is entitled at any reasonable time to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations;
- (b) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove any material referred to in clause (a) that relates to the purpose of the inspection in order to make a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person whose premises are being inspected;
- (c) may inspect the premises and operations;
- (d) may examine or test samples of substances to ensure that the regulations are being complied with; and
- (e) upon giving a receipt therefor and showing the certificate of appointment issued by the Minister, may remove a substance or a sample of a substance referred to in clause (d) in order to conduct further tests, for any purpose reasonably necessary to carry out effectively the purposes of this Act.

Not to
obstruct
inspector

(3a) No person shall obstruct the inspector or withhold, destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(5) Section 17 of the said Act is further amended by adding thereto the following subsection:

(4a) A certificate as to the result of any test that contains the name and a statement of the qualifications of the person who conducted the test and purports to be signed by that person is, without proof of the office or signature of that person, receivable in evidence as *prima facie* proof of the facts stated in the certificate for all purposes in any proceeding or prosecution if it has been served on any party or defendant to the proceeding or prosecution within a reasonable time before the proceeding or trial in which it is to be adduced.

Admissibility
of test results

(6) Subsection 17 (5) of the said Act is repealed.

15. The said Act is further amended by adding thereto the following sections:

17a.—(1) A person who has reasonable grounds to suspect that a resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect shall forthwith report the suspicion and the information upon which it is based to the Director.

Reporting
of harm to
resident

(2) No person shall dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate another person because the other person has,

No discipline
for reporting

- (a) made a report to the Director under subsection (1);
- (b) advised the Director of a breach of this Act or the regulations; or
- (c) advised the Director of any other matter concerning the care of a resident or the operation of a nursing home that the other person believes ought to be reported to the Director,

unless the other person acts maliciously or without reasonable grounds.

(3) No person shall include in a report to the Director under subsection (1) information the person knows to be false.

Idem

(4) Notwithstanding that the information on which a report may be based is confidential or privileged, subsection (1) also applies to a legally qualified medical practitioner or a person registered under the *Health Disciplines Act* to practice a health discipline and no action for making the report shall be commenced against a practitioner or person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion.

Duty on
practitioners

R.S.O. 1980,
c. 196

Privilege
of
solicitor

(5) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client.

Licensee
to forward
complaints

17b. A licensee shall forward forthwith on receipt to the Director any written complaint the licensee receives concerning the care of a resident or the operation of the nursing home.

Financial
statement

17c.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared for each of the licensee's nursing homes a financial statement for the operation of that nursing home, including,

(a) a statement of profit and loss for that fiscal year; and

(b) any other matters respecting its financial operation that are prescribed by the regulations.

Statement to
be filed

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days after the end of the licensee's fiscal year.

Posting
and public
inspection

(3) The licensee shall post a copy of the financial statement referred to in subsection (1) in a prominent place in the nursing home.

Residents'
council

17d.—(1) Whenever at least three persons who are either residents in a nursing home or representatives of residents so request, a residents' council shall be established for that nursing home.

Idem

(2) The residents' council shall be established and conducted in the manner provided for by the regulations.

Members

(3) Each resident, or where the resident is unable to participate, the resident's legal representative may be a member of the residents' council and, in addition, a person selected by the resident or the legal representative may be a member of the residents' council.

Idem

(4) No licensee or where the licensee is a corporation, no officer, director or person with a controlling interest in it and no member of the staff of a nursing home shall be a member of a residents' council.

Residents'
council
advisory
committee

17e.—(1) There shall be established for each residents' council a residents' council advisory committee to be composed of,

- (a) no fewer than three and no more than seven members, to be elected by the residents' council from among its members; and
 - (b) no more than three members who live in the area in which the nursing home is located, to be appointed by the Minister.
- (2) It is the function of a committee and it has the power to, Powers of committee
- (a) advise residents respecting their rights and obligations under this Act;
 - (b) advise residents respecting the rights and obligations of the licensee under this Act;
 - (c) receive and investigate complaints from residents and other persons;
 - (d) meet regularly with the licensee to,
 - (i) review Ministry inspection reports,
 - (ii) review the allocation of money for food, supplies and services provided by the nursing home,
 - (iii) review the financial statement filed under section 17c when it is filed, and
 - (iv) review the operation of the nursing home;
 - (e) attempt to mediate and resolve any dispute between a resident and the licensee;
 - (f) attend meetings of the residents' council and report on its activities to the residents' council;
 - (g) report to the Minister any concerns and recommendations that in its opinion or in the opinion of the residents' council ought to be brought to the Minister's attention; and
 - (h) carry out any other functions prescribed by the regulations.

17f.—(1) The Minister, with the consent of a committee, may appoint a residents' council advisor to assist the committee in carrying out its responsibilities. Residents' council advisor

Idem

(2) In carrying out his or her duties, a residents' council advisor shall take instructions from and report to the committee.

Entry and inspection

(3) A residents' council advisor at any time may enter upon the premises of a nursing home for the purpose of meeting with a resident or a member of the residents' council or both and subject to subsection (4) the advisor, where instructed by the committee to make such an inspection, may enter upon the premises of the nursing home and is entitled to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including payroll records, records of staff hours worked, medical and drug records and any other records that are relevant for the purposes of the inspection or required to be kept under this Act or the regulations.

Consent of resident

(4) A residents' council advisor is not entitled to free access to a record that relates to a particular resident without the consent of that resident or, where the resident is unable to consent, of the legal representative of the resident.

Idem

(5) No person shall refuse entry to a nursing home to a residents' council advisor or obstruct a residents' council advisor or withhold or destroy, conceal or refuse to furnish any information or thing required by a residents' council advisor for the purpose of an inspection.

Licensee to co-operate

17g. The licensee shall co-operate with the residents' council, the committee and the residents' council advisor and shall provide the information, including financial information, and assistance to them provided for by the regulations.

Committee, etc., not personally liable

17h. No proceeding shall be commenced against a member of a committee or a residents' council advisor for any act done in accordance with section 17e or 17f, unless the act is done maliciously or without reasonable grounds.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Liability of licensee

19.—(1) In addition to any other liability for an offence under this Act or the regulations, the licensee is guilty of an offence for the contravention of any provision of this Act except subsection 17a (1) or of the regulations that creates an obligation in respect of a nursing home,

- (a) without imposing a duty on a specified person to carry it out; or

- (b) by imposing a duty on a specified person other than the licensee to carry it out.

(2) Notwithstanding subsection (1), a licensee is guilty of an offence under subsection (1) if the licensee contravenes subsection 17a (1). Idem

19a. Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for each subsequent offence. Penalty

19b.—(1) Where a party to a proceeding under section 19 or 19a wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the party may apply to a provincial judge for an order appointing a justice of the peace to attend upon the witness and to take the evidence of the witness under oath. Evidence of disabled resident

(2) Where a party to a proceeding before the Board under this Act wishes to call as a witness in the proceeding a resident who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness. Idem

(3) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the resident is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding. Medical report sufficient proof

(4) A person shall not take evidence from a resident under subsection (1) or (2) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the resident. Opportunity to examine

(5) A transcript of the evidence of a resident taken under subsection (1) and certified as correct by the person who recorded it may be read in evidence in a proceeding under this Act. Transcript as evidence

17.—(1) Clause 20 (j) of the said Act is amended by adding at the end thereof “and governing their form and content”.

(2) Section 20 of the said Act is amended by adding thereto the following clauses:

(ma) respecting the form and content of requests for proposals for the issuing of nursing home licenses;

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(ta) designating services to be provided to residents by licensees for which no more than a prescribed amount may be charged and prescribing that amount;

(tb) prescribing matters to be included in a financial statement for the operation of a nursing home;

(tc) respecting the establishment and conduct of residents' councils;

(td) prescribing additional functions of a committee;

(te) respecting the information, financial information and assistance a licensee shall give to a residents' council, a committee and a residents' council advisor.

Commence-
ment

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Nursing Homes Amendment Act, 1986*.

Bill 177

An Act to amend the Health Facilities Special Orders Act, 1983

The Hon. M. Elston
Minister of Health

1st Reading December 16th, 1986
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1. Subsection 10 (4a) replaces subsection 11 (2) of the Act which is repealed in section 2. Subsection 11 (2) of the Act provides:

(2) Notice of a hearing under this Act shall afford the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.

The new subsection clarifies that a licensee should be given an opportunity to comply with lawful requirements in order to avoid proceedings, where it is just to do so. A similar change is made in Mr. Elston's bill amending the *Nursing Homes Act*.

SECTION 2. The proposed amendments to section 11 of the Act set out in this Bill would ensure that an agent of a residents' council can be a party to a proceeding concerning a nursing home under this Act and that residents and other affected persons may be given an opportunity to make submissions to the Board. Mr. Elston's bill amending the *Nursing Homes Act* has a similar provision.

SECTION 3. Self-explanatory. A similar provision with respect to residents of nursing homes is included in Mr. Elston's bill amending the *Nursing Homes Act*.

Bill 177

1986

**An Act to amend the
Health Facilities Special Orders Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *Health Facilities Special Orders Act, 1983*, being chapter 43, is amended by adding thereto the following subsection:

(4a) Before the Board hears a matter it must be satisfied that the licensee has been given a reasonable opportunity to comply with all the lawful requirements for the retention of the licence where it would be just and reasonable to do so.

Opportunity
to comply

2.—(1) Subsection 11 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the licensee holds a licence under the *Nursing Homes Act*, an agent for the residents' council of the nursing home established under that Act is also a party to proceedings before the Board under this Act and the Board may permit any person who is not a party before it, including a resident of the nursing home, a representative of a resident of the nursing home, an employee of the nursing home or any other person who may be affected by its decision to make written or oral submissions to the Board, and where it does so those submissions may be made either personally or through an agent.

Idem
R.S.O. 1980,
c. 320

(2) Subsection 11 (3) of the said Act is amended by inserting after "subsection (1)" in the first line "and a person who is permitted to make submissions to the Board under subsection (2)".

(3) Subsection 11 (6) of the said Act is amended by striking out "and heard the evidence and argument of the parties" in the third and fourth lines and inserting in lieu thereof "heard the evidence and argument of the parties and read or heard any written or oral submissions made under subsection (2)".

3. The said Act is amended by adding thereto the following section:

Evidence
of disabled
person

11a.—(1) Where a party to a proceeding under this Act wishes to call as a witness in the proceeding a person who by reason of age, infirmity or physical disability is unable to attend the proceeding, the members of the Board who are holding the hearing, at the request of the party, may attend upon the witness and take the evidence of the witness.

Medical
report
sufficient
proof

(2) A medical report signed by a legally qualified medical practitioner stating that the practitioner believes the witness is unable to attend a proceeding by reason of age, infirmity or physical disability is *prima facie* proof of the inability of the witness to attend the proceeding.

Opportunity
to examine

(3) A person shall not take evidence from a witness under subsection (1) unless reasonable notice of the time for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the witness.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Health Facilities Special Orders Amendment Act, 1986*.

Bill 178

An Act to amend the County of Oxford Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading December 16th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Under the proposed subsection 10 (2a), the clerks of each area municipality will be required to file a certificate of qualification with the clerk of the County with respect to the persons who will represent the area municipality on the County Council.

SECTION 2. It is proposed that subsection 22 (4) of the Act be repealed. The said subsection relates to conflicts of interest. Conflicts of interest are now governed by the *Municipal Conflict of Interest Act, 1983*.

SECTION 3. This section would repeal section 73 of the Act to remove an obsolete provision. The *Juvenile Delinquents Act* (Canada) to which reference is made has been repealed.

SECTION 4. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of the County at a public meeting of the County Council. The proposed amendment will permit the County Council to prescribe the manner of making the selection by lot.

SECTION 5. The re-enactment of subsection 117 (4) changes a reference to the *Mortmain and Charitable Uses Act* to read as a reference to the *Charities Accounting Act*. The former Act has been repealed. Section 6c of the latter Act authorizes a municipal corporation to hold land for charitable purposes.

SECTIONS 6, 7 and 8. The proposed Part XII relates to the annexation of certain lands in the Township of Norfolk to the Town of Tillsonburg and *vice versa*. The annexations are provided for in an agreement that was negotiated by the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk.

Bill 178

1986

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Where a person is elected or appointed to represent an area municipality as a member of the County Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the County the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the County has received such a certificate in respect of that person.

Certificates
of qualifi-
cation

2. Subsection 22 (4) of the said Act is repealed.

3. Section 73 of the said Act is repealed.

4. Clause 99 (c) of the said Act is amended by striking out “at a public meeting of the County Council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the County Council”.

5. Subsection 117 (4) of the said Act is repealed and the following substituted therefor:

(4) The County shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

6. The said Act is amended by adding thereto the following Part:

PART XII

TILLSONBURG-NORFOLK ANNEXATIONS

Definitions

139. In this Part,

“area annexed to the Town” means the land annexed to the Town under clause 140 (a);

“area annexed to the Township” means the land annexed to the Township under clause 140 (b);

“Tillsonburg-Norfolk Annexation Agreement” means the agreement set out in the Tillsonburg-Norfolk Negotiating Committee *Recommendation for Agreement*, signed the 15th day of April, 1985, as amended and adopted by the Town, by by-law no. 2312 passed the 23rd day of September, 1985, by the Township, by by-law 873-85 passed the 9th day of September, 1985, by the County, by by-law 2600-85 passed the 25th day of September, 1985, and by The Regional Municipality of Haldimand-Norfolk, by by-law 143-85 passed the 26th day of September, 1985;

“Town” means The Corporation of the Town of Tillsonburg;

“Township” means The Corporation of the Township of Norfolk.

Annexations

140. On the day this Part comes into force,

- (a) the portion of the Township of Norfolk described in Schedule A is annexed to the Town; and
- (b) the portion of the Town of Tillsonburg described in Schedule B is annexed to the Township.

Application
of by-laws

141.—(1) Subject to subsections (2) and (3),

- (a) the by-laws of the County and of the Town extend to the area annexed to the Town; and
- (b) the by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township extend to the area annexed to the Township.

Idem

(2) The following by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township remain in force in the area annexed to the Town until amended or repealed by the County Council or by the council of the Town, as the case may be:

1. By-laws relating to highways.
2. By-laws passed under section 34 of the *Planning Act, 1983* or under any predecessor of that section. 1983, c. 1
3. By-law 87-75 of the Township.
4. By-laws that apply to any of the annexed lands that could not have been repealed by the Regional Council or the council of the Township.

(3) The by-laws of the County and of the Town passed under section 34 of the *Planning Act, 1983* or a predecessor of that section remain in force in the area annexed to the Township until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk or the Township, as the case may be. Idem

(4) Until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk, the provisions of the official plan of the County that pertain to the area annexed to the Township shall be deemed to be provisions of the official plan of the Haldimand-Norfolk Planning Area. Official plan

142.—(1) The Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter the Tillsonburg-Norfolk Annexation Agreement and the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk may implement the agreement in accordance with its terms. Power to enter and implement agreement

(2) Without restricting the generality of subsection (1), Idem

- (a) all taxes, rates and charges levied by the Township with respect to the area annexed to the Town before the effective date of the annexation and uncollected as of that date shall be deemed to be owing to the Town and may be collected by the Town in the same manner and with the same remedies as taxes owing to the Town; and

- (b) the Town shall be deemed to have been substituted for the Township with respect to loans made to or by the Township under section 3 of the *Housing Development Act* with respect to the area annexed to the Town. R.S.O. 1980, c. 209

(3) The Tillsonburg-Norfolk Annexation Agreement comes into effect on the day this Part comes into force. Effective date of agreement

7. The said Act is further amended by adding thereto the following Schedules:

SCHEDULE A

That portion of the Township of Norfolk described as follows is annexed to the Town of Tillsonburg:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE southerly along the westerly limit of the said King's Highway to intersect a line measured westerly at right angles from a point in the easterly limit of the said King's Highway distant 121.92 metres measured northerly therealong from the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE easterly along the said line to a point distant 60.96 metres from the easterly limit of the said King's Highway;

THENCE southerly and parallel with the easterly limit of the said King's Highway to the westerly limit of the said Lot 7;

THENCE southeasterly along the westerly limit of the said Lot 7 to a point distant 646.78 metres measured northwesterly therealong from the southerly angle of the said Lot 7;

THENCE northeasterly along a line measured at right angles from the westerly limit of the said Lot 7 to the westerly limit of Lot 8 in the said Concession IV;

THENCE southeasterly along the westerly limit of the said Lot 8 and the said westerly limit prolonged to the southeasterly limit of the road allowance between concessions III and IV North of Talbot Road;

THENCE northeasterly along the southeasterly limit of the said road allowance to the northerly angle of Lot 10 in Concession III North of Talbot Road;

THENCE northwesterly to and along the easterly limit of Lot 10 in Concession IV North of Talbot Road of the former Township of Middleton to an angle of the Town of Tillsonburg;

THENCE westerly along the southerly boundary of the said Town to the point of commencement.

SCHEDULE B

That portion of the Town of Tillsonburg described as follows is annexed to the Township of Norfolk:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE northerly along the westerly limit of the said King's Highway to the southerly limit of the right of way of the Canadian National Railways;

THENCE westerly along the southerly limit of the said right of way to the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE southeasterly along the westerly limit of the said Lot 7 to the southerly boundary of the Town of Tillsonburg;

THENCE easterly along the southerly boundary of the said Town to the point of commencement.

8. The assessment of land in the areas described in Schedules A and B to the *County of Oxford Act*, as enacted by section 7 of this Act, upon which taxes shall be levied in the year 1987 after section 7 comes into force shall be determined by the assessment commissioner and section 34 of the *Assessment Act* applies. Transition

9.—(1) This Act, except sections 6, 7 and 8, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 6, 7 and 8 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

10. The short title of this Act is the *County of Oxford Amendment Act, 1986*. Short title

Bill 178

(Chapter 9
Statutes of Ontario, 1987)

An Act to amend the County of Oxford Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 178

1987

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 10 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Where a person is elected or appointed to represent an area municipality as a member of the County Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the County the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the County has received such a certificate in respect of that person.

Certificates
of quali-
fication

2. Subsection 22 (4) of the said Act is repealed.

3. Section 73 of the said Act is repealed.

4. Clause 99 (c) of the said Act is amended by striking out “at a public meeting of the County Council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the County Council”.

5. Subsection 117 (4) of the said Act is repealed and the following substituted therefor:

(4) The County shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

Application
of
R.S.O. 1980,
c. 65

6. The said Act is amended by adding thereto the following Part:

PART XII

TILLSONBURG-NORFOLK ANNEXATIONS

Definitions

139. In this Part,

“area annexed to the Town” means the land annexed to the Town under clause 140 (a);

“area annexed to the Township” means the land annexed to the Township under clause 140 (b);

“Tillsonburg-Norfolk Annexation Agreement” means the agreement set out in the Tillsonburg-Norfolk Negotiating Committee *Recommendation for Agreement*, signed the 15th day of April, 1985, as amended and adopted by the Town, by by-law no. 2312 passed the 23rd day of September, 1985, by the Township, by by-law 873-85 passed the 9th day of September, 1985, by the County, by by-law 2600-85 passed the 25th day of September, 1985, and by The Regional Municipality of Haldimand-Norfolk, by by-law 143-85 passed the 26th day of September, 1985;

“Town” means The Corporation of the Town of Tillsonburg;

“Township” means The Corporation of the Township of Norfolk.

Annexations

140. On the day this Part comes into force,

- (a) the portion of the Township of Norfolk described in Schedule A is annexed to the Town; and
- (b) the portion of the Town of Tillsonburg described in Schedule B is annexed to the Township.

Application
of by-laws

141.—(1) Subject to subsections (2) and (3),

- (a) the by-laws of the County and of the Town extend to the area annexed to the Town; and
- (b) the by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township extend to the area annexed to the Township.

Idem

(2) The following by-laws of The Regional Municipality of Haldimand-Norfolk and of the Township remain in force in the area annexed to the Town until amended or repealed by the County Council or by the council of the Town, as the case may be:

1. By-laws relating to highways.
2. By-laws passed under section 34 of the *Planning Act, 1983* or under any predecessor of that section. 1983, c. 1
3. By-law 87-75 of the Township.
4. By-laws that apply to any of the annexed lands that could not have been repealed by the Regional Council or the council of the Township.

(3) The by-laws of the County and of the Town passed under section 34 of the *Planning Act, 1983* or a predecessor of that section remain in force in the area annexed to the Township until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk or the Township, as the case may be. Idem

(4) Until amended or repealed by the council of The Regional Municipality of Haldimand-Norfolk, the provisions of the official plan of the County that pertain to the area annexed to the Township shall be deemed to be provisions of the official plan of the Haldimand-Norfolk Planning Area. Official plan

142.—(1) The Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter the Tillsonburg-Norfolk Annexation Agreement and the Town, the Township, the County and The Regional Municipality of Haldimand-Norfolk may implement the agreement in accordance with its terms. Power to enter and implement agreement

(2) Without restricting the generality of subsection (1), Idem

(a) all taxes, rates and charges levied by the Township with respect to the area annexed to the Town before the effective date of the annexation and uncollected as of that date shall be deemed to be owing to the Town and may be collected by the Town in the same manner and with the same remedies as taxes owing to the Town; and

(b) the Town shall be deemed to have been substituted for the Township with respect to loans made to or by the Township under section 3 of the *Housing Development Act* with respect to the area annexed to the Town. R.S.O. 1980, c. 209

(3) The Tillsonburg-Norfolk Annexation Agreement comes into effect on the day this Part comes into force. Effective date of agreement

7. The said Act is further amended by adding thereto the following Schedules:

SCHEDULE A

That portion of the Township of Norfolk described as follows is annexed to the Town of Tillsonburg:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE southerly along the westerly limit of the said King's Highway to intersect a line measured westerly at right angles from a point in the easterly limit of the said King's Highway distant 121.92 metres measured northerly therealong from the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE easterly along the said line to a point distant 60.96 metres from the easterly limit of the said King's Highway;

THENCE southerly and parallel with the easterly limit of the said King's Highway to the westerly limit of the said Lot 7;

THENCE southeasterly along the westerly limit of the said Lot 7 to a point distant 646.78 metres measured northwesterly therealong from the southerly angle of the said Lot 7;

THENCE northeasterly along a line measured at right angles from the westerly limit of the said Lot 7 to the westerly limit of Lot 8 in the said Concession IV;

THENCE southeasterly along the westerly limit of the said Lot 8 and the said westerly limit prolonged to the southeasterly limit of the road allowance between concessions III and IV North of Talbot Road;

THENCE northeasterly along the southeasterly limit of the said road allowance to the northerly angle of Lot 10 in Concession III North of Talbot Road;

THENCE northwesterly to and along the easterly limit of Lot 10 in Concession IV North of Talbot Road of the former Township of Middleton to an angle of the Town of Tillsonburg;

THENCE westerly along the southerly boundary of the said Town to the point of commencement.

SCHEDULE B

That portion of the Town of Tillsonburg described as follows is annexed to the Township of Norfolk:

COMMENCING at the intersection of the southerly boundary of the Town of Tillsonburg and the westerly limit of the King's Highway Number 19;

THENCE northerly along the westerly limit of the said King's Highway to the southerly limit of the right of way of the Canadian National Railways;

THENCE westerly along the southerly limit of the said right of way to the westerly limit of Lot 7 in Concession IV North of Talbot Road of the former Township of Middleton;

THENCE southeasterly along the westerly limit of the said Lot 7 to the southerly boundary of the Town of Tillsonburg;

THENCE easterly along the southerly boundary of the said Town to the point of commencement.

8. The assessment of land in the areas described in Schedules A and B to the *County of Oxford Act*, as enacted by section 7 of this Act, upon which taxes shall be levied in the year 1987 after section 7 comes into force shall be determined by the assessment commissioner and section 34 of the *Assessment Act* applies. Transition

9.—(1) This Act, except sections 6, 7 and 8, comes into force on the day it receives Royal Assent. Commencement

(2) Sections 6, 7 and 8 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

10. The short title of this Act is the *County of Oxford Amendment Act, 1987*. Short title

Bill 179

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading December 16th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 22 of section 1 deletes an obsolete reference to biennial elections. The repeal of paragraph 28 and the enactment of subsection (2) clarifies the meaning of the expression “unorganized territory”.

SECTION 2. Under the proposed subsection 30 (9), a city council may designate its members of council, other than the mayor and members of the board of control, to be “councillors” rather than “aldermen”. The other amendments to section 30 are complementary to the enactment of subsection 30 (9).

SECTION 3. The proposed re-enactment of section 48 clarifies that,

- (a) an order declaring vacant the seats of the members of a council or local board may be made sixty days after the last meeting at which a quorum was not present;
- (b) an order under this section must declare all of the seats vacant; and
- (c) the new election shall be held in accordance with section 92 of the *Municipal Elections Act*.

SECTIONS 4 and 5. The repeal of section 59 and the re-enactment of subsection 72 (2) will have the effect of consolidating and simplifying the provisions of the Act related to the appointment of an acting head of council.

SECTIONS 6 and 7. The repeal of subsection 77 (4) is complementary to the enactment of section 78a.

The proposed section 78a authorizes municipalities and local boards to transfer their documents to the Provincial Archivist.

The proposed section 78b provides for the receiving in evidence of documents of a municipality that are in the possession of the clerk or the Archivist.

SECTION 8. It is proposed that subsection 87 (2) of the Act be repealed. The said subsection provides that a by-law appointing a collector remains in force until repealed. The provision is considered to be unnecessary in light of sections 4 and 27 of the *Interpretation Act*.

SECTION 9. The re-enactment of subsection 98 (5) clarifies that costs may be awarded to a local board in proceedings in which the local board is represented by a lawyer who is a salaried officer of the local board or of a municipality acting on behalf of the local board.

SECTION 10. The re-enactment of subsection 100 (1) deletes the restriction on payments under section 100 whereby an allowance paid under the section cannot exceed three-fifths of the employee's average annual salary for the final three years of service. The repeal of subsection 100 (5) is complementary to the re-enactment of subsection 100 (1).

SECTION 11. The proposed subsection 117 (7) relates to pension plans established by special Acts of the Legislature. At present, under certain of these Acts, the approval of the Minister or of the Ministry is required before any by-law related to such a plan may be amended. It is proposed that this requirement be removed.

SECTION 12. The repeal of section 120 is complementary to the enactment of paragraph 58a of section 208, as set out in subsection 20 (3) of the Bill.

SECTION 13. The proposed amendment to subsection 126 (3) of the Act deletes unnecessary words.

SECTION 14. Section 127 of the Act relates to procedures to be followed by a county council before issuing debentures on behalf of a local municipality. The provision is considered to be unnecessary and it is proposed that it be repealed.

SECTION 15. The proposed re-enactment of subsection 132 (2) deletes numerous requirements related to the publishing of a synopsis of a proposed by-law that requires the assent of the electors.

SECTION 16. It is proposed that section 135 of the Act be repealed. The section relates to matters dealt with in the *Municipal Elections Act*.

SECTION 17. The proposed re-enactment of subsection 137 (2) deletes numerous requirements related to the publishing of a synopsis of a by-law that is being promulgated.

SECTION 18. The proposed amendment to subsection 148 (4) deletes unnecessary words.

SECTION 19. Section 151 of the Act is repealed. It imposes an unnecessary restriction on the borrowing powers of counties.

SECTION 20.—Subsection 1. It is proposed that the requirement for Ministry approval of pension by-laws be deleted.

Subsection 2. The purpose of the proposed re-enactments is to authorize municipalities and local boards to make payments on behalf of retired employees and their spouses and children with respect to life and medical insurance and on behalf of retired employees with respect to insurance under the *Health Insurance Act*.

Subsection 3. The re-enactment of paragraph 58 deletes a requirement for the approval by the Minister of agreements made under paragraph 58 of section 208.

The proposed paragraph 58a authorizes the council of any municipality to pass by-laws for establishing and carrying out the business of cold storage. At present, this power is restricted to city municipalities.

SECTION 21.—Subsection 1. The proposed paragraphs authorize local municipalities to pass by-laws related to the leashing of dogs and the removal of dog excrement.

Subsection 2. The repealed paragraph relates to matters dealt with in the *Health Protection and Promotion Act, 1983*.

Subsection 3. The re-enactment of clause (d) of paragraph 125 corrects an internal reference to subsection 321a (1) of the Act.

Subsection 4. Paragraph 136 of section 210 relates to the hauling of dead horses, offal, night soil and other offensive matter. The provision is considered to be archaic.

SECTION 22. The re-enactment of subsection 211 (17) and the repeal of subsection 211 (18) eliminates the requirement that by-laws related to the closing of retail gasoline service stations may only be repealed if more than one-third of the occupiers of the service stations are opposed to the continuance of the by-law.

SECTION 23.—Subsection 1. Paragraph 2 of section 225 authorizes county councils to pass by-laws related to booms on streams and rivers. The section is considered to be archaic.

Subsection 2. Clause (a) of paragraph 3 of section 225 is unnecessary as the assent of the electors is no longer required.

SECTION 24. The proposed amendments to section 225a will permit all upper tier municipalities, all cities and all separated towns and townships in counties and all local municipalities in unorganized territory to establish and operate gypsy moth control programs. At present, only counties have this power.

SECTION 25. The proposed re-enactment of section 253 authorizes municipalities to expend money to celebrate any event or matter of interest or importance. At present, such events or matters must be of national or international interest or importance.

SECTIONS 26 to 32. These amendments relate to county bridges and county roads. The principal purpose of the amendments is to delete the authority of county councils to erect bridges on highways that are not part of the county road system and to provide a mechanism whereby county councils, with the consent of the local municipality or municipalities, may transfer their jurisdiction over existing bridges that are not on the county road system back to the local municipality or municipalities that have jurisdiction over the highways on which the bridges are situate.

The repeal of section 274 deletes the requirement that a county must upgrade a township road immediately after the county assumes jurisdiction over the road.

SECTION 33. The proposed repeal of subsection 298 (6) deletes the requirement for a judge's approval of by-laws closing highways in townships in unorganized territory and in townships that are separated from the counties in which they are situate. The re-enactment of subsections 298 (3) and 298 (7) is complementary to the repeal of subsection 298 (6).

Under subsection 298 (12) by-laws related to roads must be registered in the land registry office if the roads are lands to which the *Registry Act* applies. The proposed re-enactment of this subsection will require the registration of such by-laws related to roads in areas to which the *Land Titles Act* applies. The proposed subsections 298 (13) and (14) provide that the registration requirement does not apply to such by-laws in the land registry system if they were passed before the enactment of the forerunner of the present subsection 298 (12) or to such by-laws in the land titles system if they were passed before the coming into force of the new subsection 298 (12).

The proposed subsection 298 (15) re-enacts the present subsection 316 (4).

SECTION 34. The proposed section 309a authorizes all municipalities to construct noise abatement works on the untravelled portion of any highway. All municipalities will be able to undertake such works as a local improvement work.

SECTION 35. The proposed re-enactment of section 316 incorporates and revises the provisions now found in section 57 of the *Surveys Act* related to the closing and sale of highways on plans of subdivision.

SECTION 36. The proposed amendment to section 325 deletes unnecessary words.

SECTION 37.—Subsection 1. Noise abatement works are added to the list of works that may be undertaken as a local improvement work.

Subsection 2. The proposed amendment authorizes a municipality to pay part of the cost of noise abatement works constructed as a local improvement.

Subsections 3 and 4. The proposed amendment authorizes the municipality to assess owners other than those whose land abuts directly on noise abatement works for a share of the cost of the works.

Subsection 5. The amendment provides for the assessment of owners whose lots front or abut on noise abatement works for all or part of the costs of the works.

SECTION 38.—Subsection 1. See note for sections 39, 40 and 41.

Subsection 2. The amendment to section 92 of the *Municipal Elections Act* is complementary to the re-enactment of section 48 of the *Municipal Act* set out in the Bill.

SECTIONS 39, 40 and 41. The amendments are complementary to the enactment of subsection 30 (9) of the *Municipal Act*, as set out in section 2 of the Bill. The amendments recognize that area municipalities will be able to designate “aldermen” as “councillors”.

SECTION 42. The repeal of subsections 57 (2) to (9) of the *Surveys Act* is complementary to the re-enactment of section 316 of the *Municipal Act* set out in the Bill.

—

Bill 179

1986

**An Act to amend the Municipal Act and
certain other Acts related to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

AMENDMENTS TO THE *MUNICIPAL ACT*

1.—(1) Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. “regular election” means an election required to be held under section 10 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) Paragraph 28 of the said section 1 is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 19, section 4 and 1982, chapter 50, section 1, is further amended by adding thereto the following subsection:

(2) For the purposes of this Act, a local municipality is in unorganized territory if it is in a territorial district mentioned in the *Territorial Division Act* and if it is not in The District of Muskoka or The Regional Municipality of Sudbury. Unorganized
territory
R.S.O. 1980,
c. 497

2.—(1) Subsections 30 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and the following number of other members of council: City councils

(a) three members for each ward; or

- (b) where the council by by-law so provides, two members for each ward; or
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one member for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

By-law for
election by
general vote

(2) In the case provided for by clause (1) (c), or where the council of a city having a population of more than 15,000 by by-law so provides, the members of council to be elected under that clause shall be elected by general vote, and in the latter case the number of members shall be the same as if they were elected by wards.

(2) Section 30 of the said Act is amended by adding thereto the following subsections:

“Alderman”

(8) The members of the council of a city, other than the mayor and members of the board of control, shall have the title “alderman”.

“Councillor”

(9) Notwithstanding subsection (8) or any other Act, the council of a city may by by-law change the title “alderman” to “councillor” or *vice versa*.

Idem

(10) A by-law to change the title “alderman” to “councillor” or *vice versa* passed after the 30th day of June in the year of a regular election and before the 1st day of December in that year is of no effect.

Idem

(11) Not more than one by-law shall be passed during the term of a council to change the title of members of the council.

Idem

(12) Subsection (8) does not apply to the office of metropolitan councillor in the City of Toronto.

Idem

(13) Subsections (9) to (11) apply with necessary modifications to the change of the title “city alderman” to “city councillor” in the City of Toronto and *vice versa*.

3. Section 48 of the said Act is repealed and the following substituted therefor:

Declaration
that all
seats vacant

48.—(1) If, because of a failure to obtain a quorum, the council of a municipality or a local board thereof is unable to hold a meeting, or a subsequent meeting within sixty days of the meeting that was not held, the Minister may by order

declare all the seats of the members of the council or local board, as the case may be, to be vacant and a new election shall be held in accordance with section 92 of the *Municipal Elections Act*.

R.S.O. 1980,
c. 308

(2) If the Minister makes an order under subsection (1) or the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with section 92 of the *Municipal Elections Act*, and the members so elected have taken office.

Interim
adminis-
tration

4. Section 59 of the said Act is repealed.

5. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council.

Acting head

6. Subsection 77 (4) of the said Act is repealed.

7. The said Act is amended by adding thereto the following sections:

78a.—(1) Notwithstanding subsection 77 (1), the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist.

Transfer of
documents to
Archivist

(2) The Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist.

Idem
R.S.O. 1980,
c. 303

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law.

Copies of
certain
by-laws to
be kept

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature.

Definition

Certified
copies of
documents
receivable
in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

8. Subsection 87 (2) of the said Act is repealed.

9. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

Costs in
legal
proceedings
R.S.O. 1980,
c. 303

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of the solicitor's or counsel's duty and remunerated therefor by a salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

10.—(1) Subsection 100 (1) of the said Act is repealed and the following substituted therefor:

Retirement
allowance

(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee, during the employee's life, who has had continuous service for at least twenty years with the municipality or with the municipal-

ity and any other municipality or local board as defined in the *Municipal Affairs Act* or any two or more of them and who, R.S.O. 1980,
c. 303

- (a) is retired because of age; or
- (b) while in the service of any municipality or local board has become incapable of working through illness or otherwise.

(2) Subsection 100 (5) of the said Act is repealed.

11. Section 117 of the said Act is amended by adding thereto the following subsection:

(7) Notwithstanding any special Act, the approval of the Minister or Ministry is not required to amend any by-law of a municipality related to an approved pension plan. By-laws
under
special Acts,
approval not
required

12. Section 120 of the said Act is repealed.

13. Subsection 126 (3) of the said Act is amended by striking out “without the assent of the electors” in the third and fourth lines.

14. Section 127 of the said Act is repealed.

15. Subsection 132 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it. Synopsis

16. Section 135 of the said Act is repealed.

17. Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a true copy of the by-law, the council may publish a synopsis of it. Synopsis

18. Subsection 148 (4) of the said Act is amended by striking out “without the assent of the electors but” in the sixth line.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 16, is repealed.

20.—(1) Clause (b) of paragraph 46 of section 208 of the said Act is repealed.

(2) Paragraphs 48 and 49 of the said section 208 are repealed and the following substituted therefor:

Insurance,
hospitali-
zation,
etc.
R.S.O. 1980,
cc. 197, 218,
388

48. Subject to the *Health Insurance Act*, for providing by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or retired employees or any class or classes thereof,
- ii. group accident insurance or group sickness insurance for employees or retired employees or any class or classes thereof and their spouses and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or retired employees or any class or classes thereof and their spouses and children,

and for paying the whole or part of the cost thereof.

(a) In this paragraph,

- (i) “employee” means an employee as defined in paragraph 46, and
- (ii) “retired employee” means a person who was formerly a salaried officer, clerk, worker, servant or other person in the employ of the municipality or of a local board and includes a former member of the police force of the municipality and any person or class of person designated as an employee by the Minister.

(b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply with necessary modifications thereto.

Contributions
to plans
under
R.S.O. 1980,
c. 197

49. For paying the whole or part of the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act*.

(a) In this paragraph, “employee” means an employee as defined in paragraph 46 and “retired employee”

means a retired employee as defined in subclause (a) (ii) of paragraph 48.

- (b) Any local board may contribute toward the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act* and the provisions of this paragraph apply with necessary modifications thereto.

(3) Paragraph 58 of the said section 208 is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional
economic
development
agreements

58a. For establishing and carrying on the business of cold storage in connection with or upon the market property of the corporation.

Cold storage
business

21.—(1) Section 210 of the said Act is amended by adding thereto the following paragraphs:

6a. For requiring, within any defined area or areas of the municipality, any person who owns or harbours a dog to keep the dog leashed and under the control of some person when the dog is on any land of the municipality or of any local board thereof.

Leashing
of dogs

6b. For requiring any person who owns or harbours a dog to remove forthwith excrement left by the dog anywhere in the municipality and for excluding from the operation of the by-law such class or classes of physically handicapped persons as may be set out in the by-law.

Dog waste

(2) Paragraph 71 of the said section 210 is repealed.

(3) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the writ-

ten complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

(4) Paragraph 136 of the said section 210 is repealed.

22. Subsections 211 (17) and (18) of the said Act are repealed and the following substituted therefor:

Repeal of
by-law

(17) A council may amend or repeal any by-law passed under any predecessor of this section, whether or not the by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

23.—(1) Paragraph 2 of section 225 of the said Act is repealed.

(2) Clause (a) of paragraph 3 of the said section 225 is repealed.

24.—(1) Subsection 225a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 14, section 1, is repealed and the following substituted therefor:

Definition

(1) In this section, “municipality” means,

- (a) a county or a city or other local municipality within a county that has been separated from the county for municipal purposes;
- (b) a local municipality in unorganized territory;
- (c) a metropolitan, regional or district municipality or the County of Oxford.

Gypsy moth
control
programs

(1a) By-laws may be passed by the councils of municipalities for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

(2) Subsections 225a (3), (5) and (6) of the said Act are amended by striking out “county” and “county’s” wherever those words occur and inserting in lieu thereof in each instance “municipality” and “municipality’s”, as the case may be.

25. Section 253 of the said Act is repealed and the following substituted therefor:

Expenses for
entertaining
guests

253. Notwithstanding the provisions of any general or special Act, the council of any municipality may expend in any year such sum as it may determine for the reception or

entertainment of persons of distinction or the celebration of events or matters that the council considers to be of interest or importance.

26. Section 261 of the said Act is repealed and the following substituted therefor:

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Jurisdiction
of county
council over
highways

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Duty with
respect to
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

Continued
jurisdiction
over certain
bridges

(a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;

(b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

27. Section 262 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

28. Section 263 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

29. Section 266 of the said Act is repealed.

30.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
by
county
councils
of highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

Effect of
repeal

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

31. Sections 273, 274 and 275 of the said Act are repealed.

32. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

Bridges on
highways
under
different
jurisdictions

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and

imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

33.—(1) Subsection 298 (3) of the said Act is repealed and the following substituted therefor:

(3) A by-law passed under clause (1) (b) for altering or diverting any highway or part of a highway or under clause (1) (c) or (d) in respect of an allowance for road reserved in the original survey,

Minister's
approval

- (a) along the bank of any river, stream or other water;
- (b) along or on the shore of any lake or other water;
- (c) leading to the bank of any river or stream; or
- (d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Minister and, where the by-law is one to which subsection (7) applies, it shall not be submitted to the Minister until it has been passed in compliance with subsection (8) or (9), but the approval of the Minister is not required for a by-law for leasing a stopped-up highway or part of a highway to an owner of land that abuts on it for a period not in excess of thirty years.

(2) Subsections 298 (6) and (7) of the said Act are repealed and the following substituted therefor:

(7) Where the council of a township that forms part of a county for municipal purposes intends to pass a by-law under clause (1) (c), it shall so notify in writing the clerk of the county by registered mail or by personal service.

Notice to
clerk of
county

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

Exception

(13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Idem

(14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

R.S.O. 1980,
c. 230

Moneys to
be paid into
special
account

(15) All moneys received by the municipality from the selling or leasing of a stopped-up highway or part of a highway, the stopping-up of which is subject to the approval of the Minister under subsection (3), less any amount expended by the municipality out of its general funds for the purpose of stopping-up and selling or leasing the highway or part thereof, shall be paid into a special account and the provisions of subsection 50 (12) of the *Planning Act, 1983* apply to such account and the moneys therein.

1983, c. 1

34. The said Act is further amended by adding thereto the following section:

Noise
abatement
works

309a.—(1) By-laws may be passed by the council of every municipality for constructing noise abatement works on the untravelled portion of any highway.

Definition

(2) For the purposes of subsection (1), “municipality” includes a metropolitan, regional and district municipality and the County of Oxford.

Application
of
R.S.O. 1980,
c. 250

(3) The *Local Improvement Act* applies to a county, metropolitan, regional and district municipality and the County of Oxford for the purpose of constructing noise abatement works as if each of them were a municipality as defined in that Act.

Special
assessment
and
collection of
special
assessments

(4) If a municipality described in subsection (3) (herein referred to as an upper tier municipality) proceeds under the *Local Improvement Act*, a local municipality shall provide all information requested by the upper tier municipality for the purpose of the preparation of the special assessment rolls, and the clerk of the upper tier municipality, after certifying the special assessment rolls, shall forward the same to the treasurer of the local municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the upper tier municipality.

35. Section 316 of the said Act is repealed and the following substituted therefor:

316.—(1) Subject to sections 317 and 318, where a highway or any part of a highway over which a municipality has jurisdiction has been closed under this Act, the *Registry Act* or the *Land Titles Act* and the council of the municipality determines to sell the land forming the highway or the part of the highway so closed, the land shall be sold in accordance with this section.

Sale of
closed
highway
R.S.O. 1980,
cc. 445, 230

(2) The council shall by by-law set the sale price of the land to be sold and shall offer to sell it to the owner of the land abutting the land to be sold and where,

Sale to
abutting
owners

- (a) there are parcels of land abutting on opposite sides of the land to be sold, the owner of each parcel has the right of first refusal to purchase the land to its middle line;
- (b) the land to be sold is abutted on one side by a highway that has not been closed or by a stream, river or other body of water over which the public has rights of navigation or of floating timber, the owner whose land abuts the land to be sold on the other side has the right of first refusal to purchase the land;
- (c) the land to be sold does not include the whole width of the former highway, the owner whose land abuts on the land to be sold has the right of first refusal to purchase the land.

(3) If a person entitled under subsection (2) to purchase the land does not exercise the right to purchase within such period as may be fixed by by-law, the municipality may sell the land that the person had the right to purchase to any other person at the price set under subsection (2) or at a greater price.

Sale to
other persons

(4) Where the municipality is unable to sell the land at or above the sale price set under subsection (2), the council may set a lower price under that subsection and this section applies to a sale at the lower price.

Sale at
lower price

(5) Where land is sold to an abutting owner under this section, the sidelines of the parcels abutting the land to be sold shall be extended to include the land to be sold in such manner as the council considers fair and reasonable.

Sidelines

(6) A municipality shall not use the power conferred by this section to sell land that is covered with water.

Limitation

36. Section 325 of the said Act is amended by striking out “without obtaining the assent of the electors” in the eleventh and twelfth lines.

PART II

AMENDMENTS TO OTHER ACTS

37.—(1) Subsection 2 (1) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (s) constructing noise abatement works on the untravelled portion of a street.

(2) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

Corporation
may assume
part of cost
of certain
works

(1) Subject to subsection (3), the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at a general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as the council considers proper of the cost of any of the following works constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work shall be paid by the corporation:

1. Any granolithic, stone, cement, asphalt or brick sidewalk.
2. Any pavement or curbing.
3. Any works, plant, appliances and equipment for street lighting.
4. Any noise abatement works.

(3) Subsection 31 (1) of the said Act is amended by inserting after “watermain” in the second line “or noise abatement works”.

(4) Subsection 32 (1) of the said Act is amended by striking out “or (r)” in the eighth line and inserting in lieu thereof “(r) or (s)”.

(5) Subsection 68 (2) of the said Act is amended by inserting after “pavement” in the second line “noise abatement works”.

38.—(1) Subsection 44 (3) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or councillor”.

(2) Subsection 92 (1) of the said Act is amended by striking out “or” at the end of clause (b), by inserting “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the Minister makes an order under section 48 of the *Municipal Act*.

R.S.O. 1980,
c. 302

39.—(1) Subclause 5 (2) (a) (iii) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the fifth line and inserting in lieu thereof “other members of council”.

(2) Clause 5 (2) (b) of the said Act is amended by striking out “aldermen” in the second line and inserting in lieu thereof “other members of council”.

(3) Subsection 5 (4) of the said Act is amended by striking out “alderman, or aldermen” in the third and fourth lines and inserting in lieu thereof “other member or members of council”.

(4) Clause 152 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) the following number of other members of council:
- (i) if elected by general vote, not fewer than four members, or
 - (ii) if elected by wards and the area municipality has four or more wards, one, two or three members for each ward, or, if the area municipality has fewer than four wards, two or three members for each ward.

(5) Subsection 152 (2) of the said Act is repealed and the following substituted therefor:

(2) The Borough of East York shall be deemed to be a city municipality for the purposes of subsections 30 (8), (9), (10) and (11) and section 68 of the *Municipal Act*.

Borough of
East York,
use of
designation
councillor;
board of
control
R.S.O. 1980,
c. 302

(6) The definition of “city alderman” in subsection 152a (1) of the said Act, as enacted by the Statutes of Ontario, 1985,

chapter 2, section 4, is repealed and the following substituted therefor:

“city alderman or councillor” means a person described in clause (2) (b).

(7) Subsection 152a (4) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by adding at the end thereof “or councillors”.

(8) Subsection 152a (6) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “aldermen” in the fourth line “or councillors”.

(9) Subsection 152a (7) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “alderman” in the third line “or councillor”.

40. Subsection 3 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Composition
of councils

(1) The council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of council:

1. Town of Lincoln—eight members elected by wards.
2. Town of Fort Erie—eight members elected by wards.
3. Town of Grimsby—eight members elected by general vote.
4. City of Niagara Falls—twelve members elected by wards.
5. Town of Niagara-on-the-Lake—eight members elected by general vote.
6. Town of Pelham—six members elected by wards.
7. City of Port Colborne—eight members elected by wards.
8. City of St. Catharines—twelve members elected by wards.

9. City of Thorold—ten members elected by general vote.
10. Township of Wainfleet—four members elected by general vote.
11. City of Welland—twelve members elected by wards.
12. Township of West Lincoln—six members elected by wards.

(1a) Subsections 30 (8), (9), (10) and (11) of the *Municipal Act* apply to an area municipality which is a town or township as if it were a city municipality.

Application
of
R.S.O. 1980,
c. 302

41.—(1) Paragraph 1 of subsection 3 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the first line and inserting in lieu thereof “members”.

(2) Clause 6 (b) of the said Act is repealed and the following substituted therefor:

- (b) the council of the City of Sudbury so long as the total number of members of council, excluding the mayor, does not exceed nine.

42. Subsections 57 (2) to (9) of the *Surveys Act*, being chapter 493 of the Revised Statutes of Ontario, 1980, are repealed.

43. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

44. The short title of this Act is the *Municipal Statute Law Amendment Act, 1986*.

Short title

Bill 179

(Chapter 10
Statutes of Ontario, 1987)

An Act to amend the Municipal Act and certain other Acts related to Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs



<i>1st Reading</i>	December 16th, 1986
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 179

1987

**An Act to amend the Municipal Act and
certain other Acts related to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

AMENDMENTS TO THE *MUNICIPAL ACT*

1.—(1) Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. “regular election” means an election required to be held under section 10 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) Paragraph 28 of the said section 1 is repealed.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 19, section 4 and 1982, chapter 50, section 1, is further amended by adding thereto the following subsection:

- (2) For the purposes of this Act, a local municipality is in unorganized territory if it is in a territorial district mentioned in the *Territorial Division Act* and if it is not in The District of Muskoka or The Regional Municipality of Sudbury. Unorganized
territory
R.S.O. 1980,
c. 497

2.—(1) Subsections 30 (1) and (2) of the said Act are repealed and the following substituted therefor:

- (1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and the following number of other members of council: City councils

- (a) three members for each ward; or

- (b) where the council by by-law so provides, two members for each ward; or
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one member for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

By-law for
election by
general vote

(2) In the case provided for by clause (1) (c), or where the council of a city having a population of more than 15,000 by by-law so provides, the members of council to be elected under that clause shall be elected by general vote, and in the latter case the number of members shall be the same as if they were elected by wards.

(2) Section 30 of the said Act is amended by adding thereto the following subsections:

“Alderman”

(8) The members of the council of a city, other than the mayor and members of the board of control, shall have the title “alderman”.

“Councillor”

(9) Notwithstanding subsection (8) or any other Act, the council of a city may by by-law change the title “alderman” to “councillor” or *vice versa*.

Idem

(10) A by-law to change the title “alderman” to “councillor” or *vice versa* passed after the 30th day of June in the year of a regular election and before the 1st day of December in that year is of no effect.

Idem

(11) Not more than one by-law shall be passed during the term of a council to change the title of members of the council.

Idem

(12) Subsection (8) does not apply to the office of metropolitan councillor in the City of Toronto.

Idem

(13) Subsections (9) to (11) apply with necessary modifications to the change of the title “city alderman” to “city councillor” in the City of Toronto and *vice versa*.

3. Section 48 of the said Act is repealed and the following substituted therefor:

Declaration
that all
seats vacant

48.—(1) If, because of a failure to obtain a quorum, the council of a municipality or a local board thereof is unable to hold a meeting, or a subsequent meeting within sixty days of the meeting that was not held, the Minister may by order

declare all the seats of the members of the council or local board, as the case may be, to be vacant and a new election shall be held in accordance with section 92 of the *Municipal Elections Act*. R.S.O. 1980,
c. 308

(2) If the Minister makes an order under subsection (1) or the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with section 92 of the *Municipal Elections Act*, and the members so elected have taken office. Interim
adminis-
tration

4. Section 59 of the said Act is repealed.

5. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council. Acting head

6. Subsection 77 (4) of the said Act is repealed.

7. The said Act is amended by adding thereto the following sections:

78a.—(1) Notwithstanding subsection 77 (1), the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist. Transfer of
documents to
Archivist

(2) The Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist. Idem
R.S.O. 1980,
c. 303

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law. Copies of
certain
by-laws to
be kept

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature. Definition

Certified
copies of
documents
receivable
in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

8. Subsection 87 (2) of the said Act is repealed.

9. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

Costs in
legal
proceedings
R.S.O. 1980,
c. 303

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of the solicitor's or counsel's duty and remunerated therefor by a salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

10.—(1) Subsection 100 (1) of the said Act is repealed and the following substituted therefor:

Retirement
allowance

(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee, during the employee's life, who has had continuous service for at least twenty years with the municipality or with the municipal-

ity and any other municipality or local board as defined in the *Municipal Affairs Act* or any two or more of them and who,

R.S.O. 1980,
c. 303

(a) is retired because of age; or

(b) while in the service of any municipality or local board has become incapable of working through illness or otherwise.

(2) Subsection 100 (5) of the said Act is repealed.

11. Section 117 of the said Act is amended by adding thereto the following subsection:

(7) Notwithstanding any special Act, the approval of the Minister or Ministry is not required to amend any by-law of a municipality related to an approved pension plan.

By-laws
under
special Acts,
approval not
required

12. Section 120 of the said Act is repealed.

13. Subsection 126 (3) of the said Act is amended by striking out “without the assent of the electors” in the third and fourth lines.

14. Section 127 of the said Act is repealed.

15. Subsection 132 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it.

Synopsis

16. Section 135 of the said Act is repealed.

17. Subsection 137 (2) of the said Act is repealed and the following substituted therefor:

(2) Instead of publishing a true copy of the by-law, the council may publish a synopsis of it.

Synopsis

18. Subsection 148 (4) of the said Act is amended by striking out “without the assent of the electors but” in the sixth line.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 16, is repealed.

20.—(1) Clause (b) of paragraph 46 of section 208 of the said Act is repealed.

(2) Paragraphs 48 and 49 of the said section 208 are repealed and the following substituted therefor:

Insurance,
hospitali-
zation,
etc.

R.S.O. 1980,
cc. 197, 218,
388

48. Subject to the *Health Insurance Act*, for providing by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or retired employees or any class or classes thereof,
- ii. group accident insurance or group sickness insurance for employees or retired employees or any class or classes thereof and their spouses and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or retired employees or any class or classes thereof and their spouses and children,

and for paying the whole or part of the cost thereof.

(a) In this paragraph,

- (i) “employee” means an employee as defined in paragraph 46, and
- (ii) “retired employee” means a person who was formerly a salaried officer, clerk, worker, servant or other person in the employ of the municipality or of a local board and includes a former member of the police force of the municipality and any person or class of person designated as an employee by the Minister.

(b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply with necessary modifications thereto.

Contributions
to plans
under
R.S.O. 1980,
c. 197

49. For paying the whole or part of the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act*.

(a) In this paragraph, “employee” means an employee as defined in paragraph 46 and “retired employee”

means a retired employee as defined in subclause (a) (ii) of paragraph 48.

- (b) Any local board may contribute toward the cost to employees or retired employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act* and the provisions of this paragraph apply with necessary modifications thereto.

R.S.O. 1980,
c. 197

(3) Paragraph 58 of the said section 208 is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional
economic
development
agreements

58a. For establishing and carrying on the business of cold storage in connection with or upon the market property of the corporation.

Cold storage
business

21.—(1) Section 210 of the said Act is amended by adding thereto the following paragraphs:

6a. For requiring, within any defined area or areas of the municipality, any person who owns or harbours a dog to keep the dog leashed and under the control of some person when the dog is on any land of the municipality or of any local board thereof.

Leashing
of dogs

6b. For requiring any person who owns or harbours a dog to remove forthwith excrement left by the dog anywhere in the municipality and for excluding from the operation of the by-law such class or classes of physically handicapped persons as may be set out in the by-law.

Dog waste

(2) Paragraph 71 of the said section 210 is repealed.

(3) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the writ-

ten complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

(4) Paragraph 136 of the said section 210 is repealed.

22. Subsections 211 (17) and (18) of the said Act are repealed and the following substituted therefor:

Repeal of
by-law

(17) A council may amend or repeal any by-law passed under any predecessor of this section, whether or not the by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

23.—(1) Paragraph 2 of section 225 of the said Act is repealed.

(2) Clause (a) of paragraph 3 of the said section 225 is repealed.

24.—(1) Subsection 225a (1) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 14, section 1, is repealed and the following substituted therefor:

Definition

(1) In this section, “municipality” means,

- (a) a county or a city or other local municipality within a county that has been separated from the county for municipal purposes;
- (b) a local municipality in unorganized territory;
- (c) a metropolitan, regional or district municipality or the County of Oxford.

Gypsy moth
control
programs

(1a) By-laws may be passed by the councils of municipalities for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

(2) Subsections 225a (3), (5) and (6) of the said Act are amended by striking out “county” and “county’s” wherever those words occur and inserting in lieu thereof in each instance “municipality” and “municipality’s”, as the case may be.

25. Section 253 of the said Act is repealed and the following substituted therefor:

Expenses for
entertaining
guests

253. Notwithstanding the provisions of any general or special Act, the council of any municipality may expend in any year such sum as it may determine for the reception or

entertainment of persons of distinction or the celebration of events or matters that the council considers to be of interest or importance.

26. Section 261 of the said Act is repealed and the following substituted therefor:

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Jurisdiction
of county
council over
highways

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Duty with
respect to
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

Continued
jurisdiction
over certain
bridges

- (a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;
- (b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

27. Section 262 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

28. Section 263 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

29. Section 266 of the said Act is repealed.

30.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
by
county
councils
of highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

Effect of
repeal

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

31. Sections 273, 274 and 275 of the said Act are repealed.

32. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

Bridges on
highways
under
different
jurisdictions

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and

imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

33.—(1) Subsection 298 (3) of the said Act is repealed and the following substituted therefor:

(3) A by-law passed under clause (1) (b) for altering or diverting any highway or part of a highway or under clause (1) (c) or (d) in respect of an allowance for road reserved in the original survey,

Minister's
approval

- (a) along the bank of any river, stream or other water;
- (b) along or on the shore of any lake or other water;
- (c) leading to the bank of any river or stream; or
- (d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Minister and, where the by-law is one to which subsection (7) applies, it shall not be submitted to the Minister until it has been passed in compliance with subsection (8) or (9), but the approval of the Minister is not required for a by-law for leasing a stopped-up highway or part of a highway to an owner of land that abuts on it for a period not in excess of thirty years.

(2) Subsections 298 (6) and (7) of the said Act are repealed and the following substituted therefor:

(7) Where the council of a township that forms part of a county for municipal purposes intends to pass a by-law under clause (1) (c), it shall so notify in writing the clerk of the county by registered mail or by personal service.

Notice to
clerk of
county

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

Exception (13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Idem (14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

R.S.O. 1980,
c. 230

Moneys to
be paid into
special
account (15) All moneys received by the municipality from the selling or leasing of a stopped-up highway or part of a highway, the stopping-up of which is subject to the approval of the Minister under subsection (3), less any amount expended by the municipality out of its general funds for the purpose of stopping-up and selling or leasing the highway or part thereof, shall be paid into a special account and the provisions of subsection 50 (12) of the *Planning Act*, 1983 apply to such account and the moneys therein.

1983, c. 1

34. The said Act is further amended by adding thereto the following section:

Noise
abatement
works

309a.—(1) By-laws may be passed by the council of every municipality for constructing noise abatement works on the untravelling portion of any highway.

Definition

(2) For the purposes of subsection (1), “municipality” includes a metropolitan, regional and district municipality and the County of Oxford.

Application
of
R.S.O. 1980,
c. 250

(3) The *Local Improvement Act* applies to a county, metropolitan, regional and district municipality and the County of Oxford for the purpose of constructing noise abatement works as if each of them were a municipality as defined in that Act.

Special
assessment
and
collection of
special
assessments

(4) If a municipality described in subsection (3) (herein referred to as an upper tier municipality) proceeds under the *Local Improvement Act*, a local municipality shall provide all information requested by the upper tier municipality for the purpose of the preparation of the special assessment rolls, and the clerk of the upper tier municipality, after certifying the special assessment rolls, shall forward the same to the treasurer of the local municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the upper tier municipality.

35. Section 316 of the said Act is repealed and the following substituted therefor:

316.—(1) Subject to sections 317 and 318, where a highway or any part of a highway over which a municipality has jurisdiction has been closed under this Act, the *Registry Act* or the *Land Titles Act* and the council of the municipality determines to sell the land forming the highway or the part of the highway so closed, the land shall be sold in accordance with this section.

Sale of
closed
highway
R.S.O. 1980.
cc. 445, 230

(2) The council shall by by-law set the sale price of the land to be sold and shall offer to sell it to the owner of the land abutting the land to be sold and where,

Sale to
abutting
owners

- (a) there are parcels of land abutting on opposite sides of the land to be sold, the owner of each parcel has the right of first refusal to purchase the land to its middle line;
- (b) the land to be sold is abutted on one side by a highway that has not been closed or by a stream, river or other body of water over which the public has rights of navigation or of floating timber, the owner whose land abuts the land to be sold on the other side has the right of first refusal to purchase the land;
- (c) the land to be sold does not include the whole width of the former highway, the owner whose land abuts on the land to be sold has the right of first refusal to purchase the land.

(3) If a person entitled under subsection (2) to purchase the land does not exercise the right to purchase within such period as may be fixed by by-law, the municipality may sell the land that the person had the right to purchase to any other person at the price set under subsection (2) or at a greater price.

Sale to
other persons

(4) Where the municipality is unable to sell the land at or above the sale price set under subsection (2), the council may set a lower price under that subsection and this section applies to a sale at the lower price.

Sale at
lower price

(5) Where land is sold to an abutting owner under this section, the sidelines of the parcels abutting the land to be sold shall be extended to include the land to be sold in such manner as the council considers fair and reasonable.

Sidelines

(6) A municipality shall not use the power conferred by this section to sell land that is covered with water.

Limitation

36. Section 325 of the said Act is amended by striking out “without obtaining the assent of the electors” in the eleventh and twelfth lines.

PART II

AMENDMENTS TO OTHER ACTS

37.—(1) Subsection 2 (1) of the *Local Improvement Act*, being chapter 250 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (s) constructing noise abatement works on the untravelled portion of a street.

(2) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

(1) Subject to subsection (3), the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at a general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as the council considers proper of the cost of any of the following works constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work shall be paid by the corporation:

1. Any granolithic, stone, cement, asphalt or brick sidewalk.
2. Any pavement or curbing.
3. Any works, plant, appliances and equipment for street lighting.
4. Any noise abatement works.

(3) Subsection 31 (1) of the said Act is amended by inserting after “watermain” in the second line “or noise abatement works”.

(4) Subsection 32 (1) of the said Act is amended by striking out “or (r)” in the eighth line and inserting in lieu thereof “(r) or (s)”.

(5) Subsection 68 (2) of the said Act is amended by inserting after “pavement” in the second line “noise abatement works”.

Corporation
may assume
part of cost
of certain
works

38.—(1) Subsection 44 (3) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “or councillor”.

(2) Subsection 92 (1) of the said Act is amended by striking out “or” at the end of clause (b), by inserting “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the Minister makes an order under section 48 of the *Municipal Act*.

R.S.O. 1980,
c. 302

39.—(1) Subclause 5 (2) (a) (iii) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the fifth line and inserting in lieu thereof “other members of council”.

(2) Clause 5 (2) (b) of the said Act is amended by striking out “aldermen” in the second line and inserting in lieu thereof “other members of council”.

(3) Subsection 5 (4) of the said Act is amended by striking out “alderman, or aldermen” in the third and fourth lines and inserting in lieu thereof “other member or members of council”.

(4) Clause 152 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) the following number of other members of council:
- (i) if elected by general vote, not fewer than four members, or
 - (ii) if elected by wards and the area municipality has four or more wards, one, two or three members for each ward, or, if the area municipality has fewer than four wards, two or three members for each ward.

(5) Subsection 152 (2) of the said Act is repealed and the following substituted therefor:

(2) The Borough of East York shall be deemed to be a city municipality for the purposes of subsections 30 (8), (9), (10) and (11) and section 68 of the *Municipal Act*.

Borough of
East York,
use of
designation
councillor;
board of
control

(6) The definition of “city alderman” in subsection 152a (1) of the said Act, as enacted by the Statutes of Ontario, 1985,

R.S.O. 1980,
c. 302

chapter 2, section 4, is repealed and the following substituted therefor:

“city alderman or councillor” means a person described in clause (2) (b).

(7) Subsection 152a (4) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by adding at the end thereof “or councillors”.

(8) Subsection 152a (6) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “aldermen” in the fourth line “or councillors”.

(9) Subsection 152a (7) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 2, section 4, is amended by inserting after “alderman” in the third line “or councillor”.

40. Subsection 3 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Composition
of councils

(1) The council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of council:

1. Town of Lincoln—eight members elected by wards.
2. Town of Fort Erie—eight members elected by wards.
3. Town of Grimsby—eight members elected by general vote.
4. City of Niagara Falls—twelve members elected by wards.
5. Town of Niagara-on-the-Lake—eight members elected by general vote.
6. Town of Pelham—six members elected by wards.
7. City of Port Colborne—eight members elected by wards.
8. City of St. Catharines—twelve members elected by wards.

9. City of Thorold—ten members elected by general vote.
10. Township of Wainfleet—four members elected by general vote.
11. City of Welland—twelve members elected by wards.
12. Township of West Lincoln—six members elected by wards.

(1a) Subsections 30 (8), (9), (10) and (11) of the *Municipal Act* apply to an area municipality which is a town or township as if it were a city municipality.

Application
of
R.S.O. 1980,
c. 302

41.—(1) Paragraph 1 of subsection 3 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “aldermen” in the first line and inserting in lieu thereof “members”.

(2) Clause 6 (b) of the said Act is repealed and the following substituted therefor:

- (b) the council of the City of Sudbury so long as the total number of members of council, excluding the mayor, does not exceed nine.

42. Subsections 57 (2) to (9) of the *Surveys Act*, being chapter 493 of the Revised Statutes of Ontario, 1980, are repealed.

43. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

44. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Short title

Bill 180

An Act to establish the Ministry of Financial Institutions

The Hon. M. Kwinter
*Minister of Financial
Institutions*

1st Reading December 17th, 1986
2nd Reading
3rd Reading
Royal Assent

Projet de loi 180

Loi portant création du ministère des Institutions financières

L'honorable M. Kwinter
*ministre des Institutions
financières*



1^{re} lecture 17 décembre 1986
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill establishes the Ministry of Financial Institutions.

NOTE EXPLICATIVE

Le projet de loi porte création du ministère des Institutions financières.

Bill 180**1986****An Act to establish the
Ministry of Financial Institutions**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions	1. In this Act,
"sous-ministre"	"Deputy Minister" means the Deputy Minister of Financial Institutions;
"ministre"	"Minister" means the Minister of Financial Institutions;
"ministère"	"Ministry" means the Ministry of Financial Institutions.
Ministry established	2. There shall be a ministry of the public service to be known as the Ministry of Financial Institutions.
Minister to have charge	3. The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry.
Functions of Minister	4.—(1) It is the function of the Minister, <ul style="list-style-type: none">(a) to advise the Government respecting financial institutions and services in Ontario;(b) to develop policies to increase the domestic and international competitiveness of Ontario in the financial services sector;(c) to develop policies and programs to improve protection for the consumer of financial services;(d) to appoint task forces and advisory committees and to conduct studies respecting financial institutions and services;

Projet de loi 180

1986

Loi portant création du ministère
des Institutions financières

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1

Les définitions qui suivent s'appliquent à la présente loi.

Définitions
- «ministère»

Le ministère des Institutions financières.

«Ministry»
- «ministre»

Le ministre des Institutions financières.

«Minister»
- «sous-ministre»

Le sous-ministre des Institutions financières.

«Deputy Minister»
- 2

Est créé un ministère de la fonction publique portant le nom de ministère des Institutions financières.

Création du ministère
- 3

Le ministre dirige le ministère et en a la responsabilité. Il a le pouvoir d'agir pour le compte du ministère et en son nom.

Responsabilité du ministre
- 4

(1) Les fonctions du ministre sont les suivantes :

Fonctions du ministre
- a)

conseiller le gouvernement en ce qui a trait aux institutions financières et aux services financiers en Ontario;
- b)

élaborer des politiques visant à accroître la compétitivité de l'Ontario dans le secteur des services financiers, au Canada et à l'étranger;
- c)

élaborer des politiques et des programmes visant à mieux protéger les consommateurs de services financiers;
- d)

constituer des groupes de travail et des comités consultatifs et effectuer des études portant sur les institutions financières et les services financiers;

- (e) to promote investor confidence in financial institutions in Ontario;
- (f) to develop systems for monitoring the financial stability of financial institutions;
- (g) to assist in the rehabilitation of financial institutions when it is in the public interest to do so;
- (h) to collect and disseminate information on financial institutions and services in Ontario; and
- (i) to promote high standards of business and management for financial institutions and others who provide financial services in Ontario.

Idem (2) For the purpose of carrying out his or her functions under this Act, the Minister may,

- (a) make grants and loans out of moneys appropriated by the Legislature;
- (b) provide funding for task forces, advisory committees and studies; and
- (c) enter into agreements with any government, agency or person.

Adminis-
tration
of Acts

5.—(1) The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Amendments
to Schedule

(2) The Lieutenant Governor in Council may by order amend the Schedule.

Annual
report

(3) After the end of each year, the Minister shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Financial Institutions who shall be the deputy head of the Ministry.

- e) favoriser la confiance des investisseurs dans les institutions financières de l'Ontario;
- f) élaborer des systèmes de contrôle de la stabilité financière des institutions financières;
- g) - aider au redressement de la situation des institutions financières quand cela est dans l'intérêt du public;
- h) rassembler et diffuser des renseignements sur les institutions financières et les services financiers en Ontario;
- i) favoriser l'élaboration et le respect, par les institutions financières et autres fournisseurs de services financiers en Ontario, de normes élevées dans leurs affaires et leur gestion.

(2) Dans l'exercice de ses fonctions en vertu de la présente loi, le ministre peut : Idem

- a) accorder des subventions et consentir des prêts en prélevant les sommes affectées à cette fin par la législature;
- b) pourvoir au financement de groupes de travail, de comités consultatifs et des études qui sont faites;
- c) conclure des ententes avec un gouvernement, une agence ou une personne.

5 (1) Le ministre est chargé de l'application de la présente loi, des lois qui figurent à l'annexe et des lois qui lui sont confiées par la législature ou par le lieutenant-gouverneur en conseil. Application des lois

(2) Le lieutenant-gouverneur en conseil peut modifier l'annexe par décret. Modification de l'annexe

(3) Au terme de chaque exercice, le ministre présente au lieutenant-gouverneur en conseil un rapport annuel sur les affaires du ministère. Le ministre le dépose ensuite devant l'Assemblée si elle siège, sinon à la session suivante. Rapport annuel

6 (1) Le lieutenant-gouverneur en conseil nomme un sous-ministre des Institutions financières qui exerce les fonctions d'administrateur général du ministère. Sous-ministre

Staff

R.S.O. 1980,
c. 418

(2) Subject to the *Public Service Act*, there may be appointed such other officers and employees as the Minister considers necessary for the proper conduct of the business of the Ministry.

Delegation
of powers
and
duties

7.—(1) Where, under this or any other Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister, to an officer or employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Idem

R.S.O. 1980,
c. 274

(2) A delegation made under the *Ministry of Consumer and Commercial Relations Act* in relation to an Act set out in the Schedule shall be deemed to have been made by the Minister.

Deeds and
contracts

R.S.O. 1980,
c. 147

(3) Notwithstanding section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation made under subsection (1) has the same effect as if signed by the Minister.

Facsimile
signature

(4) The Minister may authorize the use of a facsimile of his or her signature and the Deputy Minister may authorize the use of a facsimile of his or her signature on any document except an affidavit or a statutory declaration.

Idem

(5) A facsimile of the signature of the Minister or the Deputy Minister affixed to a document under an authorization made under subsection (4) shall be deemed to be the signature of the Minister or the Deputy Minister, as the case may be.

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry, anyone acting under the authority of the Minister or the Deputy Minister, or anyone appointed under this Act or an Act set out in the Schedule for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
Liability

R.S.O. 1980,
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Delegation of
power to
hold hearing

R.S.O. 1980,
c. 249

9.—(1) Where, under any Act, the Minister, the Superintendent of Insurance, the Registrar appointed under the *Loan and Trust Corporations Act* or the Director of Credit

(2) Sous réserve de la *Loi sur la fonction publique*, d'autres fonctionnaires et employés peuvent être nommés selon ce que le ministre juge nécessaire afin d'assurer le bon fonctionnement du ministère.

Personnel
L.R.O. 1980,
chap. 418

7 (1) Le ministre peut déléguer au sous-ministre, à un fonctionnaire, à un employé du ministère ou à un autre fonctionnaire tout pouvoir ou obligation que lui confère ou impose la présente loi ou une autre loi. La délégation est écrite et peut être assortie de conditions.

Délégation de
pouvoirs et
d'obligations

(2) La délégation faite aux termes de la *Loi sur le ministère de la Consommation et du Commerce* relativement à une loi qui figure à l'annexe, est réputée faite par le ministre.

Idem
L.R.O. 1980,
chap. 274

(3) Malgré l'article 6 de la *Loi sur le Conseil des ministres*, un acte ou un contrat signé par une personne habilitée à ce faire en vertu d'une délégation faite aux termes du paragraphe (1) a le même effet que s'il est signé par le ministre.

Actes et
contrats
L.R.O. 1980,
chap. 147

(4) Le ministre et le sous-ministre peuvent chacun autoriser l'utilisation d'un fac-similé de leur signature sur tout document, à l'exclusion d'un affidavit ou d'une déclaration solennelle.

Fac-similé de
signature

(5) Un fac-similé de la signature du ministre ou du sous-ministre apposé à un document en vertu d'une autorisation accordée aux termes du paragraphe (4), est réputé la signature du ministre ou du sous-ministre, selon le cas.

Idem

8 (1) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre le sous-ministre, un fonctionnaire ou un employé du ministère, quiconque agit sous l'autorité du ministre ou du sous-ministre ou quiconque nommé en vertu de la présente loi ou d'une loi qui figure à l'annexe, pour un acte accompli de bonne foi dans l'exercice ou prétendu exercice de leurs fonctions ou pour négligence ou défaut imputé et commis dans cet exercice de bonne foi.

Immunité

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Responsabilité
de la
Couronne
L.R.O. 1980,
chap. 393

9 (1) Si, en vertu d'une loi, le ministre, le surintendant des assurances, le registraire nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*, ou le directeur des caisses populaires a le pouvoir ou l'obligation de tenir une audience

Délégation du
pouvoir de
tenir une
audience

Unions has the power or duty to hold a hearing before making a decision, such official may delegate the power and duty to hold a hearing and make a decision to one or more persons appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Appointment
by
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by order appoint persons, including members of the public service, for any purpose mentioned in subsection (1), who shall hold office during pleasure.

Presiding
officer

(3) Where more than one person is delegated a power or duty under subsection (1), the official who delegated the power or duty shall designate one of them as presiding officer.

Remuneration
and expenses

(4) Persons appointed under subsection (2), other than members of the public service, shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and the reasonable expenses incurred by them in the course of their duties under this Act.

Decisions

(5) Where more than one person is delegated a power or duty under subsection (1), the decision of the majority shall be deemed to be the decision of the official who delegated the power or duty, but, if there is no majority, the decision of the presiding officer governs.

Amendment
of subs. (1)

(6) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "Registrar appointed under the *Loan and Trust Corporations Act*" and inserting in lieu thereof "Superintendent or the Director appointed under the *Loan and Trust Corporations Act, 1986*".

1986, c. ...

Accounting
statement
respecting
grant or loan
R.S.O. 1980,
c. 405

10.—(1) The Minister may require a recipient of a grant or loan under this Act to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the grant or loan by the recipient.

Idem

(2) Where the Minister requires a statement under subsection (1), the recipient shall arrange for the preparation of the statement forthwith and provide the statement as soon as practicable.

Guarantee
of loans

11.—(1) On the recommendation of the Treasurer of Ontario and Minister of Economics, the Lieutenant Governor

avant de prendre une décision, le ministre ou ce haut fonctionnaire peut déléguer ce pouvoir ou cette obligation à une ou plusieurs personnes qu'a nommées le lieutenant-gouverneur en conseil sur la recommandation du ministre.

(2) Le lieutenant-gouverneur en conseil, sur la recommandation du ministre, peut, par décret, nommer des personnes, y compris des membres de la fonction publique, à l'une des fins prévues au paragraphe (1). Ces personnes exercent leurs fonctions à titre amovible.

Nomination
par le
lieutenant-
gouverneur
en conseil

(3) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), le ministre ou le haut fonctionnaire qui a délégué le pouvoir ou l'obligation désigne une de ces personnes comme président.

Président

(4) Les personnes nommées aux termes du paragraphe (2), à l'exclusion des membres de la fonction publique, reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et le paiement des frais normaux qu'elles ont engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération
et frais

(5) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), la décision de la majorité est réputée la décision du ministre ou du haut fonctionnaire qui a délégué le pouvoir ou l'obligation. En cas de partage, le président a voix prépondérante.

Décisions

(6) À la date que le lieutenant-gouverneur fixe par proclamation, le paragraphe (1) est modifié par substitution des mots «surintendant ou le directeur nommé aux termes de la *Loi de 1986 sur les compagnies de prêt et de fiducie*» aux mots «registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*».

Modification
du par. (1)

1986.
chap. ...

10 (1) Le ministre peut exiger du bénéficiaire d'une subvention accordée ou d'un prêt consenti en vertu de la présente loi qu'il lui présente un relevé établi par une personne agréée aux termes de la *Loi sur les experts-comptables* qui indique en détail la manière dont le bénéficiaire a fait usage des fonds provenant de la subvention ou du prêt.

Relevé comp-
table concer-
nant une
subvention ou
un prêt
L.R.O. 1980.
chap. 405

(2) Si le ministre exige le relevé visé au paragraphe (1), le bénéficiaire prend sans délai les dispositions nécessaires à l'établissement du relevé qu'il fournit dès que cela est possible.

Idem

11 (1) Sur la recommandation du trésorier de l'Ontario et ministre de l'Économie, le lieutenant-gouverneur en conseil

Prêts garantis

in Council may, for any of the purposes of this Act, guarantee the payment of any loan or a part thereof, together with interest thereon, made to any person.

Form of
guarantee

(2) A guarantee under subsection (1) shall be in the form and on the terms approved by the Lieutenant Governor in Council and shall be signed by the Treasurer of Ontario or by such other officer or officers as the Lieutenant Governor in Council designates.

Province
liable for
payment

(3) The Province of Ontario is liable for the payment of the loan or part thereof and interest thereon according to the terms of the guarantee signed in accordance with subsection (2).

Payment of
interest

(4) Where a guarantee is given under subsection (1), the Lieutenant Governor in Council may authorize the payment by the Province of Ontario of the whole or any part of the interest on the loan for the whole or any part of the term of the guarantee.

Payment of
guarantee

(5) The moneys necessary to fulfill the requirements of any guarantee under this section shall be paid out of the Consolidated Revenue Fund.

Offence

12. No person shall, in respect of a grant or loan made under this Act,

- (a) make a false or misleading statement in an application or other document;
- (b) furnish any false or misleading information; or
- (c) expend or commit the whole or part of the grant or loan for a purpose other than the purpose for which it was given.

Appointment
of
investigators

13.—(1) The Minister may appoint employees of the Ministry as investigators to carry out investigations related to any grant, loan or guarantee made or given under this Act.

Powers on
investigation

(2) An investigator, in carrying out an investigation under subsection (1), may,

- (a) enter any place;
- (b) require any person to furnish information within a reasonable specified time;

peut, pour toute application de la présente loi, garantir le remboursement de la totalité ou d'une partie d'un prêt consenti à quiconque, ainsi que le paiement des intérêts qui s'y rapportent.

(2) Le lieutenant-gouverneur en conseil approuve la forme de la garantie et les conditions de celle-ci. Cette garantie est signée par le trésorier de l'Ontario ou par le ou les fonctionnaires que le lieutenant-gouverneur en conseil désigne.

Forme de la
garantie

(3) La province de l'Ontario est responsable du remboursement de la totalité ou d'une partie du prêt, ainsi que du paiement des intérêts qui s'y rapportent, selon les conditions de la garantie signée conformément au paragraphe (2).

La province
est responsa-
ble du paie-
ment

(4) S'il a donné une garantie aux termes du paragraphe (1), le lieutenant-gouverneur en conseil peut autoriser le paiement, par la province de l'Ontario, de la totalité ou d'une partie des intérêts qui se rapportent au prêt pour l'ensemble ou une partie de la durée de la garantie.

Paiement des
intérêts

(5) Les fonds nécessaires pour honorer les obligations qui découlent d'une garantie donnée aux termes du présent article sont prélevés sur le Fonds du revenu consolidé.

Paiement du
montant cou-
vert par la
garantie

12 En ce qui concerne une subvention accordée ou un prêt consenti en vertu de la présente loi, nul ne doit :

Infraction

- a) soit faire une déclaration fausse ou trompeuse sur une demande ou un autre document;
- b) soit fournir des renseignements faux ou trompeurs;
- c) ou bien dépenser ou affecter la totalité ou une partie de la subvention ou du prêt à une fin autre que celle faisant l'objet de la somme accordée.

13 (1) Le ministre peut nommer, parmi les employés du ministère, des enquêteurs pour qu'ils effectuent des enquêtes portant sur une subvention accordée, un prêt consenti ou une garantie donnée en vertu de la présente loi.

Nomination
d'enquêteurs

(2) Dans le cadre de l'enquête visée au paragraphe (1), l'enquêteur peut :

Pouvoirs des
enquêteurs

- a) pénétrer dans un endroit quelconque;
- b) exiger de quiconque qu'il fournisse des renseignements dans un délai raisonnable précisé;

- (c) require any person to produce any document or thing in his or her possession or control;
- (d) on giving a receipt therefor, remove from a place documents produced in response to a request under clause (c) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them; and
- (e) examine any person under oath.

Idem (3) For the purpose of an examination under clause (2) (e), an investigator may administer oaths and, on giving reasonable notice, may require persons to attend at the time and place specified in the notice.

Reasonable times (4) The powers conferred by this section shall be exercised only at reasonable times.

Identification (5) An investigator exercising a power under this section shall provide identification at the time of entry.

Entry into dwellings (6) An investigator, in the exercise of a power under this section, shall not enter a place that is being used as a dwelling without the consent of the occupier except under the authority of an inspection order issued under this section.

Inspection order for search (7) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to an investigation under this section, the justice of the peace may issue an inspection order authorizing the investigator named in the order to search the place for any such documents or things and to remove them for the purpose of making copies or extracts, and they shall be returned promptly to the place from which they were removed.

Inspection order for entry (8) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an investigator may carry out an investigation under this section, the justice of the peace may issue an inspection order authorizing such entry by the investigator named in the order.

- c) exiger de quiconque qu'il produise tout document ou objet en sa possession ou sous son contrôle;
- d) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent les documents produits à la suite de la demande formulée en vertu de l'alinéa c), aux fins d'en tirer des copies ou des extraits, après quoi les documents sont promptement retournés à la personne qui les a produits;
- e) interroger quiconque sous serment.

(3) Dans le cadre de l'interrogatoire visé à l'alinéa (2) e), l'enquêteur peut faire prêter serment et peut, après avoir donné un avis suffisant, exiger des personnes qu'elles soient présentes à l'endroit et à l'heure précisés dans l'avis.

Idem

(4) Les pouvoirs que confère le présent article ne sont exercés qu'à des heures raisonnables.

Heures raisonnables

(5) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur présente une pièce d'identité au moment de pénétrer dans un endroit.

Pièce d'identité

(6) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur ne doit pas pénétrer dans un endroit qui sert de logement sans la permission de l'occupant, sauf en vertu d'une ordonnance d'inspection rendue aux termes du présent article.

Accès à un logement

(7) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves pertinentes à l'enquête effectuée en vertu du présent article, peut rendre une ordonnance d'inspection. L'ordonnance autorise l'enquêteur qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi ces pièces sont promptement retournées à cet endroit.

Perquisition

(8) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un enquêteur, dans le cadre de l'enquête effectuée en vertu du présent article, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut rendre une ordonnance d'inspection autorisant l'enquêteur qui y est nommé à pénétrer dans cet endroit.

Ordonnance pour pénétrer dans un endroit

Execution
and expiry
of order

(9) An inspection order issued under this section,

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

Ex parte
application

(10) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction
of
investigator

14.—(1) No person shall hinder or obstruct an investigator in the lawful performance of his or her duties or furnish an investigator with false information or refuse to attend an examination for which reasonable notice has been given, or refuse to furnish an investigator with information, documents or things required for the purposes of an investigation under section 13.

Obligation to
assist
investigator

(2) Every person shall furnish all necessary means in his or her power to facilitate any entry, inspection or inquiry by, or any production to, an investigator in the lawful performance of his or her duties.

Offence

15.—(1) Every person who contravenes subsection 10 (2) or section 12 or 14 and every director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Idem

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed on the corporation is \$100,000.

Restitution

(3) Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

(9) L'ordonnance rendue aux termes du présent article :

Exécution et
caducité de
l'ordonnance

- a) précise les heures et les jours pendant lesquels elle peut être exécutée;
- b) porte une date de caducité qui ne peut être postérieure à quinze jours de la date où elle a été rendue.

(10) Le juge de paix peut recevoir et examiner une requête d'ordonnance d'inspection présentée en vertu du présent article, sans préavis au propriétaire ou à l'occupant des locaux et en l'absence de ceux-ci.

Requête sans
préavis

(11) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi, et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité
des copies

14 (1) Nul ne doit entraver ni gêner un enquêteur dans l'exercice légitime de ses fonctions, lui fournir de faux renseignements, refuser d'être présent à un interrogatoire pour lequel un avis suffisant a été donné, ni refuser de lui fournir les renseignements, documents ou objets exigés aux fins de l'enquête visée à l'article 13.

Interdiction
d'entraver
l'enquêteur

(2) Toute personne met tous les moyens nécessaires dont elle dispose à la disposition de l'enquêteur dans l'exercice légitime de ses fonctions afin de l'aider à pénétrer dans un endroit quelconque, faciliter son inspection ou son enquête ou favoriser la production de documents.

Obligation
d'aider
l'enquêteur

15 (1) Quiconque contrevient au paragraphe 10 (2) ou à l'article 12 ou 14 et tout administrateur ou dirigeant d'une personne morale qui participe à cette contravention est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Infraction

(2) Malgré le paragraphe (1), si une personne morale est reconnue coupable d'une infraction aux termes du paragraphe (1), l'amende maximale qui peut lui être imposée est de 100 000 \$.

Idem

(3) Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

Limitation
period

(4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister.

Repayment
of
grant or loan

(5) On a conviction for an offence under section 12, the amount of the grant or loan in respect of which the offence was committed, together with interest thereon, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

Seal

16.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed.

References
to Minister
and Ministry

17.—(1) Except where the context otherwise requires, in any Act listed in the Schedule or in any regulation, order in council, ministerial order or other document, act or thing made or done under any such Act or provision, a reference to the Minister or Deputy Minister of Consumer and Commercial Relations shall be deemed to be a reference to the Minister or Deputy Minister of Financial Institutions, so long as the Minister of Financial Institutions administers such Act or provision, and a reference therein to the Ministry of Consumer and Commercial Relations shall be deemed to be a reference to the Ministry of Financial Institutions.

Saving

R.S.O. 1980,
c. 274

(2) Nothing in this Act invalidates any regulation, ministerial order, act or thing made or done under the *Ministry of Consumer and Commercial Relations Act* or under any other Act for which the Minister of Consumer and Commercial Relations was responsible before this Act received Royal Assent.

18. Subsection 142 (2) of the *Co-operative Corporations Act*, being chapter 91 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Information
not to be
disclosed

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except,

(a) as may be required in connection with the administration or enforcement of this Act or any Act

(4) Est irrecevable la poursuite intentée relativement à une infraction à la présente loi plus de deux ans après que les faits sur lesquels elle se fonde ont été portés en premier lieu à la connaissance du ministre. Prescription

(5) En cas de condamnation pour une infraction aux termes de l'article 12, le montant de la subvention ou du prêt à l'égard duquel l'infraction a été commise, ainsi que les intérêts qui s'y rapportent, sont réputés une dette payable à la Couronne et peuvent être recouvrés au moyen d'une action intentée devant un tribunal compétent. Remboursement d'un prêt ou d'une subvention

16 (1) Le lieutenant-gouverneur en conseil peut autoriser le ministre à posséder et utiliser un sceau. Sceau

(2) Le sceau peut être gravé, lithographié, imprimé ou reproduit par un autre moyen mécanique. Il a alors la même valeur que s'il était apposé manuellement. Idem

17 (1) Sauf si le contexte exige une interprétation contraire, dans une loi qui figure à l'annexe ou dans un règlement, un décret, un arrêté ministériel ou un autre document, acte ou chose pris ou fait en application de cette loi ou de cette disposition, une mention du ministre ou du sous-ministre de la Consommation et du Commerce est réputée une mention du ministre ou du sous-ministre des Institutions financières, tant que l'application de cette loi ou disposition relève du ministre des Institutions financières. De même, une mention du ministère de la Consommation et du Commerce est réputée une mention du ministère des Institutions financières. Mention du ministre et du ministère

(2) Aucune disposition de la présente loi n'a pour effet d'invalider un règlement, un arrêté ministériel, un acte ou une chose pris ou fait en application de la *Loi sur le ministère de la Consommation et du Commerce* ou en vertu d'une autre loi dont l'application relevait du ministre de la Consommation et du Commerce avant que la présente loi ne reçoive la sanction royale. Exception
L.R.O. 1980, chap. 274

18 Le paragraphe 142 (2) de la *Loi sur les coopératives*, qui constitue le chapitre 91 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except, Information not to be disclosed

- (a) as may be required in connection with the administration or enforcement of this Act or any Act

administered by the Minister or the Minister of Consumer and Commercial Relations;

- (b) to his or her counsel;
- (c) with the consent of the co-operative to which the information relates;
- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

19.—(1) Clause 6 (a) of the *Deposits Regulation Act*, being chapter 116 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or

(2) Section 6 of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

20.—(1) Subsection 2 (1) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “A Superintendent of Insurance shall be appointed” in the first line and inserting in lieu thereof “The Lieutenant Governor in Council shall appoint a Superintendent of Insurance”.

administered by the Minister or the Minister of Consumer and Commercial Relations;

- (b) to his or her counsel;
- (c) with the consent of the co-operative to which the information relates;
- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

19 (1) L'alinéa 6 (a) de la *Loi sur les dépositaires d'argent*, qui constitue le chapitre 116 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or*

.

(2) L'article 6 de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

20 (1) Le paragraphe 2 (1) de la *Loi sur les assurances*, qui constitue le chapitre 218 des Lois refondues de l'Ontario de 1980, est modifié par substitution, à «A Superintendent of Insurance shall be appointed» à la première ligne, de «The Lieutenant Governor in Council shall appoint a Superintendent of Insurance».

(2) Section 2 of the said Act is amended by adding thereto the following subsection:

Deputy
Superin-
tendent

(1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.

21.—(1) Clause 1 (e) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(e) “Registrar” means the Registrar under an Act administered by the Minister.

(2) Paragraphs 3, 4, 5, 6, 7, 8, 9, 11 and 13 of section 4 of the said Act are repealed.

22.—(1) Clause 1 (1) (b) of the *Mortgage Brokers Act*, being chapter 295 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 3 (2) of the said Act is amended by striking out “under the supervision of the Director” in the third line.

(3) Sections 24, 26, 30, 31 and 32 of the said Act are amended by striking out “Director” wherever that word occurs and inserting in lieu thereof in each instance “Registrar”.

(4) Clause 25 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

.

(5) Subsection 25 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

(d) to a peace officer for law enforcement purposes; or

(e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a per-

(2) L'article 2 de la loi est modifié par adjonction du paragraphe suivant :

(1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.* Deputy Superintendent

21 (1) L'alinéa 1 (e) de la *Loi sur le ministère de la Consommation et du Commerce*, qui constitue le chapitre 274 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

(e) «Registrar» means the Registrar under an Act administered by the Minister.*

(2) Les dispositions 3, 4, 5, 6, 7, 8, 9, 11 et 13 de l'article 4 de la loi sont abrogées.

22 (1) L'alinéa 1 (1) (b) de la *Loi sur les courtiers en hypothèques*, qui constitue le chapitre 295 des Lois refondues de l'Ontario de 1980, est abrogé.

(2) Le paragraphe 3 (2) de la loi est modifié par suppression des mots «under the supervision of the Director» à la troisième ligne.

(3) Les articles 24, 26, 30, 31 et 32 de la loi sont modifiés par substitution, à «Director» partout où ce mot apparaît, du mot «Registrar».

(4) L'alinéa 25 (1) (a) de la loi est abrogé et remplacé par ce qui suit :

(a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

.

(5) Le paragraphe 25 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

(d) to a peace officer for law enforcement purposes; or

(e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably

son likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

(6) Subsection 27 (3) of the said Act is amended by striking out “with the approval of the Director” in the second line.

23.—(1) Clause 26 (1) (a) of the *Registered Insurance Brokers Act*, being chapter 444 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

(2) Subsection 26 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

Commence-
ment

24. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Short title

25. The short title of this Act is the *Ministry of Financial Institutions Act, 1986*.

necessary for the protection of the victim or potential victim.*

(6) Le paragraphe 27 (3) de la loi est modifié par suppression des mots «with the approval of the Director» à la deuxième ligne.

23 (1) L'alinéa 26 (1) (a) de la *Loi sur l'inscription des courtiers d'assurances*, qui constitue le chapitre 444 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

.

(2) Le paragraphe 26 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

24 La présente loi est réputée être entrée en vigueur le 1^{er} avril 1986. Entrée en vigueur

25 Le titre abrégé de la présente loi est *Loi de 1986 sur le* Titre abrégé
ministère des Institutions financières.

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

SCHEDULE

Central Trust Company Act, 1983

Commodity Futures Act

Compulsory Automobile Insurance Act

Co-operative Corporations Act

Credit Unions and Caisses Populaires Act

Crown Trust Company Act, 1983

Deposits Regulation Act

Guarantee Companies Securities Act

Insurance Act

Investment Contracts Act

Loan and Trust Corporations Act

Marine Insurance Act

Mortgage Brokers Act

Motor Vehicle Accident Claims Act

Ontario Credit Union League Limited Act, 1972

Ontario Deposit Insurance Corporation Act

Pension Benefits Act

Prepaid Hospital and Medical Services Act

Registered Insurance Brokers Act

Securities Act

Toronto Futures Exchange Act, 1983

Toronto Stock Exchange Act, 1982

ANNEXE

Loi sur l'assurance-automobile obligatoire

Loi sur l'assurance maritime

Loi sur les assurances

Loi de 1982 sur la Bourse de Toronto

Loi sur les caisses populaires et les credit unions

Loi de 1983 sur la compagnie Central Trust

Loi de 1983 sur la compagnie Crown Trust

Loi sur les compagnies de cautionnement

Loi sur les compagnies de prêt et de fiducie

Loi sur les contrats de placement

Loi sur les coopératives

Loi sur les courtiers en hypothèques

Loi sur les dépositaires d'argent

Loi sur l'indemnisation des victimes d'accidents d'automobiles

Loi sur l'inscription des courtiers d'assurances

Loi de 1983 sur les marchés à terme de la Bourse de Toronto

Loi de 1972 sur le Ontario Credit Union League Limited

Loi sur les régimes de retraite

Loi sur les services hospitaliers et médicaux prépayés

Loi sur la Société ontarienne d'assurance-dépôt

Loi sur les valeurs mobilières

Loi sur la vente à terme de marchandises

Bill 181

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading December 17th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill deals with the retirement of provincially appointed judges.

Section 54 of the Act as currently worded requires these judges to retire at the age of sixty-five. (Different rules apply to judges appointed before 1968.) However, they may continue to work full-time or part-time until the age of seventy-five, under a system of discretionary annual extensions.

The proposed new version of section 54 sets a retirement age of seventy and eliminates the system of discretionary annual extensions. Judges aged between sixty-five and seventy are entitled to work part-time instead of full-time if they obtain the approval of the Chief Judge.

Judges in office who are already seventy or older are protected by a transitional provision.

A complementary amendment is made to section 65.

Bill 181

1986

An Act to amend the Courts of Justice Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 54 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

54.—(1) Every provincial judge shall retire upon attaining the age of seventy years. Retirement
at seventy

(2) A provincial judge who has attained the age of sixty-five years and who does not wish to continue to hold office full-time may, upon obtaining the approval of the Chief Judge, continue to hold office part-time until the judge attains the age of seventy years. Judge may
hold office
part-time
after
sixty-five

(3) Subsections (1) and (2) apply whether the provincial judge was appointed before or after the day this section comes into force. Application
of
subss. (1, 2)

(4) A provincial judge who holds office and is aged seventy years or more on the day this section comes into force may, with the annual approval of the Judicial Council, continue to hold office full-time or part-time until he or she attains the age of seventy-five years. Transition

(5) A chief judge, associate chief judge or senior judge who holds office and is aged seventy years or more on the day this section comes into force may, with the annual approval of the Judicial Council, continue to hold office until he or she attains the age of seventy-five years. Idem

(6) Subsections (2) and (4) do not apply to a chief judge, associate chief judge or senior judge. Application
of
subss. (2, 4)

2. Section 65 of the said Act is repealed and the following substituted therefor:

Chief judge,
etc., may
choose to
revert to
office of
judge

65. A chief judge, associate chief judge or senior judge who has attained the age of sixty-five years or who has held one or more of those offices for at least five years may, on giving notice to the Attorney General, cease to perform the duties of his or her office and resume the functions of a provincial judge only.

Commence-
ment

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

4. The short title of this Act is the *Courts of Justice Amendment Act, 1986*.

Bill 182

An Act to provide for a Basic Residential Power Rate Applicable to the Essential Energy Needs of Residential Households in Ontario

Mr. Sargent

<i>1st Reading</i>	December 17th, 1986
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	



EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of a basic residential rate for electrical power usage by residential households in Ontario. The basic residential rate is applied to the amount of electrical power required by a typical residential household to fulfil minimum essential energy needs. The proposed amendments to the *Ontario Energy Board Act* require the Board to determine those functions that constitute the minimum essential energy needs of a residential household in Ontario. Each municipal corporation that distributes electrical power must establish a basic residential rate on the basis of the electrical power demand required in its service area to fulfil the minimum energy needs. The Bill sets a maximum level for the basic residential rate and stipulates that the basic residential rate must be the lowest rate for electrical power usage charged by the corporation.

Bill 182

1986

**An Act to provide for a Basic Residential Power Rate
Applicable to the Essential Energy Needs of
Residential Households in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

THE ONTARIO ENERGY BOARD ACT

1. The *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

37a.—(1) The Board shall examine into and determine the minimum essential electrical needs of residents of Ontario and, on or before the 1st day of January, 1985, the Board shall make a report to the Minister listing the functions that constitute the minimum essential electrical needs of a typical residential household in Ontario.

Minimum
essential
electrical
needs

(2) Upon determination of the minimum essential electrical needs referred to in subsection (1), every municipal electric utility commission and every municipal corporation that distributes electrical power in Ontario shall determine the basic demand for electrical energy required to fulfil the minimum essential electrical needs of a typical residential household located in the area to which it distributes electrical power.

Basic
demand for
electrical
power

(3) Every commission and corporation that makes a determination under subsection (2) shall report the determination to the Board and the Board may review and alter the determination where the Board considers it proper.

Report to
Board

PART II

THE POWER CORPORATION ACT

2. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Basic
residential
rate

95b.—(1) Notwithstanding section 95, any municipal corporation that charges a rate for the distribution of electrical power shall establish a basic residential rate for residential households in the corporation's service area and the basic residential rate shall be applied to that amount of electrical power demand that is equal to the basic demand for electrical energy as determined under section 37a of the *Ontario Energy Board Act*.

R.S.O. 1980,
c. 332

Maximum
rate

(2) The basic residential rate referred to in subsection (1) shall not exceed the residential rate chargeable immediately prior to the 1st day of January, 1975, plus 50 per cent of any rate increase from the 1st day of January, 1975, to the 1st day of January, 1984.

Basic
residential
rate to be
lowest rate

(3) The basic residential rate charged by a municipal corporation shall be the lowest rate charged by the corporation to any of its customers and a corporation shall not, by means of a discount or otherwise, supply electrical power to a customer at a cost lower than the cost incurred by a person paying the basic residential rate.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Lifeline Act, 1986*.

27N
B
56

Publication

Bill 183

Government Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 183

An Act to confirm a certain Agreement between the Governments of Canada and Ontario

The Hon. V. Kerrio
Minister of Natural Resources

1st Reading December 18th, 1986
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

In 1924 an agreement was entered into between the Dominion of Canada and the Province of Ontario in respect of certain Indian Lands. The agreement was incorporated into *The Indian Lands Act, 1924*. Now, a sequel to that agreement was entered into and is set out in Schedule A to the Bill. The 1986 agreement provides that it comes into force when confirmed by the Parliament of Canada and the Legislature of Ontario. The Bill is to provide the confirmation by Ontario.

Bill 183

1986

**An Act to confirm a certain Agreement between
the Governments of Canada and Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The 1986 Indian Lands Agreement, reproduced as Schedule A, is hereby confirmed. Agreement confirmed
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is the *Indian Lands Agreement Confirmation Act, 1986*. Short title

SCHEDULE A

Memorandum of Agreement made this 5th day of August, 1986.

Between:

THE GOVERNMENT OF CANADA as represented by the Minister of Indian and Northern Affairs for Canada (hereinafter referred to as Canada)

—and—

THE GOVERNMENT OF THE PROVINCE OF ONTARIO as represented by the Minister of Natural Resources for the Province of Ontario (hereinafter referred to as Ontario)

This agreement witnesseth that the parties hereto have agreed as follows:

1. Definitions

- (a) “Band”, “Council of the Band”, “Surrender”, “Custom” and “Indian” have the same meaning as those words in the *Indian Act*, R.S.C. 1970, c.I-6, as the same may be amended from time to time;
- (b) “land” includes any interest in land;
- (c) “minerals” includes gold, silver and all other metals, precious and base, and coal, natural gas, oil, salt, sand and gravel;

- (d) "1924 Agreement" means the agreement between Canada and Ontario dated March 24, 1924, and the statutes confirming it, i.e., Statutes of Canada, 14-15 George V, chapter 48, and Statutes of Ontario, 14 George V, chapter 15.

2. Ontario, Canada, and any band or group of bands may enter into specific agreements. Any one or more Bands may enter into one or more specific agreements.

3. A specific agreement may be entered into with respect to any matter or question relating to lands or natural resources, including any of the following:

- (a) any matter dealt with in the 1924 Agreement;
- (b) administration and control;
- (c) the exercise, allocation or transfer or disposal of any interests in lands or natural resources;
- (d) minerals, mineral rights and royalties, and the disposition or taxation of any of them;
- (e) hydro powers;
- (f) disposition of lands or natural resources;
- (g) consequences of extinction or enfranchisement of a band;
- (h) disposition of any monies;
- (i) the non-applicability of any provision or provisions of the 1924 Agreement;
- (j) any other provision required for the implementation of a specific agreement.

4. The provisions of any specific agreement shall have effect upon confirmation. In the event of any inconsistency with the 1924 Agreement, the specific agreement shall supercede.

5. Neither this Agreement nor any specific agreement shall affect the validity of any treaty or surrender.

6. Canada and Ontario may enter into an agreement or agreements for the confirmation of patents issued or other dispositions of land by the other with respect to land, but no such agreement or confirmation shall in any way affect the rights of any band or the recourse which any band would, absent such agreement, have against any person or land, including the Crown and Crown lands.

7. If Canada has collected money or collects money on behalf of any band or bands pursuant to sales or other dispositions of land or interests in land, Ontario acknowledges that Canada may continue to administer that money for the use and benefit of the band or bands, but in no case shall money collected by Canada expressly on behalf of Ontario be deemed to be money collected by Canada on behalf of a band or bands.

8. This Agreement shall come into force when it is confirmed by the Parliament of Canada and the Legislature of Ontario and such confirmations come into force.

9. A specific agreement shall come into force when it is confirmed by Orders-in-Council of both Canada and Ontario and is confirmed by the band.

10. Confirmation by a band of a specific agreement shall take place:

- (a) by a Referendum conducted pursuant to regulations made by the Governor General-in-Council under the authority of the Act of Parliament implementing this Agreement; or
- (b) pursuant to the band's custom or constitution, provided that the Council of the band gives written notification to the Minister of Indian Affairs and Northern Development and to the Minister of Natural Resources for Ontario that confirmation took place pursuant to the band's custom or constitution, as the case may be.

11. Where a specific agreement affects or deals with lands, lands affected shall be described in a schedule to the specific agreement.

12. No specific agreement entered into by any band shall be binding upon any other band or have any effect on any other band unless it has been confirmed by that other band.

13. A specific agreement may be amended by the parties or their successors in the same manner as it was originally made.

IN WITNESS WHEREOF the said parties hereto have set their hands and seals.

SIGNED, SEALED AND DELIVERED
in the presence of

P. Francoeur
as to the execution of

Minister of Indian and
Northern Affairs

Bill McKnight
Minister of Indian and
Northern Affairs for
Canada

Adair Ireland-Smith
as to the execution of

Minister of Natural
Resources

Vincent G. Kerrio
Minister of Natural
Resources for the
Province of Ontario

Bill 184

An Act to amend the Retail Business Holidays Act

The Hon. I. Scott
Attorney General

1st Reading December 18th, 1986
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1. The proposed subsection 2 (3) of the Act will prohibit persons who carry on retail businesses in retail business establishments and persons acting on their behalf from counselling or requiring anyone to contravene subsection 2 (2) of the Act which prohibits anyone from selling goods in a retail business establishment on a holiday.

SECTION 2. The proposed section 8 of the Act will enable the Solicitor General to obtain court orders to restrain contraventions of the Act.

Bill 184

1986

An Act to amend the Retail Business Holidays Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) No person carrying on a retail business in a retail business establishment, and no person acting on behalf of such a person, shall counsel or require any person to contravene subsection (2). Counselling
contra-
vention, etc.

2. The said Act is amended by adding thereto the following section:

8.—(1) Upon the application of counsel for the Solicitor General to the Supreme Court, the court may make any order that is necessary to ensure compliance with this Act by a party named in the application. Court
orders

(2) An order under subsection (1) is in addition to any penalty that may be imposed under section 7 and may be made whether or not proceedings have been commenced in the Provincial Offences Court for a contravention of section 2. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Retail Business Holidays Amendment Act, 1986*. Short title

Bill 185

An Act to amend the Employment Standards Act

The Hon. W. Wrye
Minister of Labour



1st Reading December 18th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to protect employees who refuse to contravene subsection 2 (2) of the *Retail Business Holidays Act*.

Bill 185

1986

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-B

RETAIL BUSINESS ESTABLISHMENTS

39e. An employee may refuse any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*. Right to
refuse work
R.S.O. 1980,
c. 453

39f.—(1) Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer. Employment
standards
officer may
make order

2. Subsection 50 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3, is further amended by inserting after “39c” in the second line “39f”.

3. Subsection 53 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4, is further amended by inserting after “39c” in the second line “39f”.

4. Subsection 57 (1) of the said Act is amended by adding thereto the following clause:

(ea) has exercised a right to refuse work under section 39e.

Commence-
ment

5. This Act shall be deemed to have come into force on the 18th day of December, 1986.

Short title

6. The short title of this Act is the *Employment Standards Amendment Act, 1986*.

20N
B
356

Bill 186

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



1st Reading January 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The amendment to the definition of “campaign expense” provides that child care expenses and such other expenses of a non-partisan nature as may be set out in guidelines issued by the Commission on Election Finances will not be included as campaign expenses for the purposes of the Act.

SECTION 2.—Subsection 1. Clause 4 (1) (k) sets out some of the powers and duties of the Commission and is set out below showing underlined the words added by the amendment:

(k) publish, in respect of each campaign period, a joint summary of the income, campaign expenses and subsidy of each candidate, together with the income and campaign expenses of the constituency association endorsing the candidacy of that candidate, in a newspaper or newspapers having a general circulation in the electoral district in which the candidate stood for election.

Subsection 2. Clause 4 (1) (j) directs the Commission to provide guidelines for the proper administration of the Act for the guidance of auditors, political parties, constituency associations, candidates and leadership contestants. The subsections proposed to be added provide for the publication of the guidelines in *The Ontario Gazette* and emphasize their force and effect.

SECTION 3. Section 14 of the Act requires the Commission to maintain a register of candidates in relation to each election setting out certain information in respect of each candidate. The subsection proposed to be added requires a candidate to notify the Commission of any alteration in that information and requires the Commission in such case to vary the register accordingly.

SECTION 4. The amendment proposed to section 15 of the Act is to the same effect as the amendment set out in section 3 of the Bill and is in respect of the register of leadership contestants maintained by the Commission when a leadership convention is held.

SECTION 5. Subsection 23 (5) of the Act now reads as follows:

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the person, corporation or trade union authorizing the political advertising.

The effect of the proposed re-enactment is to broaden its scope so as to require the identification of a constituency association or political party that authorizes political advertising.

Bill 186

1987

An Act to amend the Election Finances Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:

- (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j),

2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j). Publication of guidelines by Commission

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j). Application of guidelines

3. Section 14 of the said Act is amended by adding thereto the following subsection:

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon Variation of register

receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 186

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	January 12th, 1987
<i>2nd Reading</i>	January 27th, 1987
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The amendments are designed to make it clear that “campaign expenses” refers, with certain specified exceptions, to expenses incurred for goods or services (including the value of goods held in inventory, fees or expenses for services and contributions of goods and services) for use in whole or in part during the period commencing with the issue of a writ for an election and terminating on polling day and to provide that child care expenses and such other expenses of a non-partisan nature as may be set out in guidelines issued by the Commission on Election Finances will not be included as campaign expenses for the purposes of the Act.

SECTION 2.—Subsection 1. Clause 4 (1) (k) sets out some of the powers and duties of the Commission and is set out below showing underlined the words added by the amendment:

(k) publish, in respect of each campaign period, a joint summary of the income, campaign expenses and subsidy of each candidate, together with the income and campaign expenses of the constituency association endorsing the candidacy of that candidate, in a newspaper or newspapers having a general circulation in the electoral district in which the candidate stood for election.

Subsection 2. Clause 4 (1) (j) directs the Commission to provide guidelines for the proper administration of the Act for the guidance of auditors, political parties, constituency associations, candidates and leadership contestants. The subsections proposed to be added provide for the publication of the guidelines in *The Ontario Gazette* and emphasize their force and effect.

SECTION 3. Section 14 of the Act requires the Commission to maintain a register of candidates in relation to each election setting out certain information in respect of each candidate. The subsection proposed to be added requires a candidate to notify the Commission of any alteration in that information and requires the Commission in such case to vary the register accordingly.

SECTION 4. The amendment proposed to section 15 of the Act is to the same effect as the amendment set out in section 3 of the Bill and is in respect of the register of leadership contestants maintained by the Commission when a leadership convention is held.

SECTION 5. Subsection 23 (5) of the Act now reads as follows:

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the person, corporation or trade union authorizing the political advertising.

The effect of the proposed re-enactment is to broaden its scope so as to require the identification of a constituency association or political party that authorizes political advertising.

Bill 186

1987

An Act to amend the Election Finances Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:



1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended,

- (a) by inserting after “incurred” in the first line “for goods or services” and by inserting after “Act” in the third line “for use in whole or in part”;
- (b) by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:
 - (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j).
- (c) by striking out “but shall be deemed to include the value of any goods held in inventory for any candidate for use during a campaign period” in the twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “but shall be deemed to include the value of any goods held in inventory or any fees or expenses for services for any candidate or political party, and any contribution of goods and services to the political party, constituency association or candidate registered under this Act, for use in whole or in part during the period commencing with the issue of the writ for an election and terminating on polling day”.



2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

Publication
of guidelines
by
Commission

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j).

Application
of guidelines

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j).

3. Section 14 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 186

(Chapter 5
Statutes of Ontario, 1987)

An Act to amend the Election Finances Act, 1986

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	January 12th, 1987
<i>2nd Reading</i>	January 27th, 1987
<i>3rd Reading</i>	February 2nd, 1987
<i>Royal Assent</i>	February 3rd, 1987

Bill 186

1987

An Act to amend the Election Finances Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The definition of “campaign expense” in subsection 1 (1) of the *Election Finances Act, 1986*, being chapter 33, is amended,

- (a) by inserting after “incurred” in the first line “for goods or services” and by inserting after “Act” in the third line “for use in whole or in part”;
- (b) by striking out “and” at the end of clause (i), by adding “and” at the end of clause (j) and by adding thereto the following clause:
 - (k) child care expenses of a candidate and other expenses not of partisan value that are set out in guidelines provided by the Commission under clause 4 (1) (j).
- (c) by striking out “but shall be deemed to include the value of any goods held in inventory for any candidate for use during a campaign period” in the twenty-third, twenty-fourth and twenty-fifth lines and inserting in lieu thereof “but shall be deemed to include the value of any goods held in inventory or any fees or expenses for services for any candidate or political party, and any contribution of goods and services to the political party, constituency association or candidate registered under this Act, for use in whole or in part during the period commencing with the issue of the writ for an election and terminating on polling day”.

2.—(1) Clause 4 (1) (k) of the said Act is amended by inserting after “income” in the second line “campaign” and by inserting after “and” in the third line “campaign”.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

Publication
of guidelines
by
Commission

(4) The Commission shall publish in *The Ontario Gazette* all guidelines provided by the Commission under clause (1) (j).

Application
of guidelines

(5) The provisions of this Act respecting contributions or campaign expenses shall be applied in conformity with guidelines in respect thereof provided by the Commission under clause (1) (j).

3. Section 14 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(7) Where any of the information referred to in clauses (3) (b) to (h) is altered, the candidate shall forthwith notify in writing the Commission of any such alteration, and upon receipt of any such notice, the Commission shall vary the register of candidates accordingly.

4. Section 15 of the said Act is amended by adding thereto the following subsection:

Variation
of register

(6) Where any of the information referred to in clauses (3) (b) to (f) is altered, the leadership contestant shall forthwith notify in writing the Commission of such alteration, and upon receipt of any such notice, the Commission shall vary the register of leadership contestants accordingly.

5. Subsection 23 (5) of the said Act is repealed and the following substituted therefor:

Reference to
person, etc.,
authorizing
advertising

(5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to the name of the registered constituency association, registered political party, person, corporation or trade union authorizing the political advertising.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 187

An Act to proclaim Martin Luther King Jr. Day

Mr. Shymko



1st Reading January 13th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill 187

1987

An Act to proclaim Martin Luther King Jr. Day

Whereas Dr. Martin Luther King Jr. made major contributions to the civil rights movement in the United States; and whereas those contributions have been of great benefit to people of all races not just in the United States but in many other countries of the world including Canada; and whereas black persons have made significant contributions to Ontario and its culture; and whereas it is desirable to recognize the contributions of black persons to Ontario and to encourage respect for the civil rights of all persons in Ontario;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The third Monday of January in each year is proclaimed to be Martin Luther King Jr. Day.

Martin
Luther
King
Jr. Day

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Martin Luther King Jr. Day Act, 1987*.

Short title

Bill 188

An Act to amend the Retail Business Holidays Act

Mr. Ashe



1st Reading January 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would allow all retail establishments that sell only books, newspapers or periodicals and all art galleries to be open on Sunday and other public holidays.

Bill 188

1987

An Act to amend the Retail Business Holidays Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 3 (1) (a) (ii) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, is amended by striking out “newspapers or periodicals, or” in the first line.

(2) Subsection 3 (3) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clause:

(d) books, newspapers or periodicals.

(3) Section 3 of the said Act is amended by adding thereto the following subsection:

(3a) Section 2 does not apply in respect of the carrying on of a retail business on a holiday in an art gallery. Idem, art galleries

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Retail Business Holidays Amendment Act, 1987*. Short title

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Bill 189

Government Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1987

Bill 189

An Act to amend the Mining Tax Act

The Hon. R. Nixon
Minister of Revenue



1st Reading January 28th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of October 24, 1985, and amends the *Mining Tax Act* to simplify the administrative provisions and parallel the administrative provisions in other Ontario taxing statutes.

SECTION 1.—Subsections 1 to 8. The amendments to section 1 of the Act provide definitions for various terms to be used in the Act as amended by the Bill and in particular,

- (a) provide that the determination of whether corporate operators are associated will no longer be at the discretion of the Minister but will be determined under the rules applicable for income tax purposes;
- (b) include expenses incurred in connection with “farm-in” arrangements in the definition of exploration and development expenditures;
- (c) include tailings in the definition of mineral substance;
- (d) provide for definitions in the Act of mining assets, processing assets, proceeds and hedging;
- (e) include the manufacturing in Canada of non-metallic mineral substances in the definition of processing;
- (f) define an operator who will be subject to tax under the Act to include a member of a joint venture, a partner in a partnership and a beneficiary of a trust, other than a person whose only right is to receive royalties; and
- (g) define the Minister to be the Minister of Revenue, consequential upon the transfer of the administration of the Act to the Minister of Revenue.

Subsection 9. The enactment of subsection 1 (2) of the Act retains the provisions of subsection 3 (16) of the Act, which is repealed by the Bill, in order to provide that the rules applicable for income tax purposes in determining whether persons are dealing at arm's length will continue to apply for the purposes of the Act.

SECTION 2. The re-enactment of section 2 provides that taxes will no longer accrue on the last day of a taxation year but proportionately over the taxation year, while the estimated amount of tax payable for the year will continue to be payable not later than two months after the end of the taxation year and any balance determined when the tax return is prepared will continue to be payable when the tax return is required to be filed under the Act.

SECTION 3. The re-enactment of subsections 3 (1) to (14) and the repeal of subsections 3 (15) and (16) of the Act imposes mining tax on an operator's profit from all mines in which the operator has an interest and provides for the calculation of the operator's profit for the taxation year as follows:

1. Subsection 3 (1) implements the Treasurer's Budget proposal of imposing a flat rate of mining tax of 20 per cent on an operator's total mining profit in excess of \$500,000, instead of the current graduated rates of 15 to 30 per cent on profits in excess of \$250,000.
2. Subsection 3 (2) requires operators which are associated corporations to share the \$500,000 annual exemption from mining tax.
3. Subsection 3 (3) reduces the \$500,000 annual exemption from mining tax where the operator has only a part interest in a mine.

4. Subsection 3 (4) reduces the \$500,000 exemption from mining tax on a *pro rata* basis if the mine is out of production sixty or more consecutive days in the year.
5. Subsection 3 (5) provides for the determination of an operator's profit from all mines in which the operator has an interest by deducting from the operator's proceeds from the sale of raw and processed mineral substances certain expenses including mining expenses, operating expenses relating to social assets, scientific research expenses, donations for charitable or educational purposes reasonably related to mining operations in Ontario, amounts in respect of exploration and development expenditures, depreciation of mining and processing assets and a processing allowance.
6. Subsection 3 (6) provides in the Act for the calculation of an operator's maximum depreciation deduction for the taxation year in respect of mining and processing assets at the same rates of depreciation currently in the Act and the regulations made under the Act.
7. Subsection 3 (7) provides for the calculation of the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures. Deductible exploration and development expenditures will be net of amounts eligible under the *Ontario Mineral Exploration Program Act*, the amount of government assistance received in respect of the exploration and development (other than OMEP grants and credits) and amounts renounced in favour of another person under the *Income Tax Act* (Canada), but will include exploration and development expenditures incurred by another person if they have been renounced and transferred for income tax purposes to the operator.
8. Subsection 3 (8) parallels generally accepted accounting principles and the capital cost allowance system under the *Income Tax Act* (Canada) and the *Corporations Tax Act* in requiring the deduction of government assistance in respect of depreciable property from the cost of the property to ensure that an operator claims depreciation expense with respect to only that portion of the cost of the depreciable property funded by the operator.
9. Subsection 3 (9) continues to disallow the deduction of the expenses and outlays currently listed in subsection 3 (11) of the Act and disallows the deduction from an operator's profit of income taxes and capital taxes.
10. Subsection 3 (10) amalgamates and incorporates in the Act the definition of undepreciated capital cost of depreciable property currently in the Act and the regulations made under the Act.
11. Subsection 3 (11) amalgamates and incorporates in the Act the provisions currently in the Act and the regulations made under the Act requiring the inclusion in profit of recaptured depreciation.
12. Subsection 3 (12) provides that on transfers of property between parties not dealing at arm's length, the cost of the property to the purchaser and the proceeds of disposition to the vendor for the purposes of the Act will no longer be at the discretion of the Minister but will be fair market value in the case of non-depreciable property and at the amount currently prescribed by regulation in the case of depreciable property.
13. Subsections 3 (13) and (14) provide that where output is sold to a non-arm's length purchaser, the operator will be deemed to have received the fair market value of the output and where an operator acquires goods or services from a non-arm's length supplier at a price in excess of the fair market value of the goods or services, the operator may not deduct an amount in excess of the fair market value in determining profit for the taxation year.

SECTION 4.—Subsection 1. The re-enactment of subsections 4 (2) and (3) of the Act and the repeal of subsection 4 (4) of the Act are consequential upon the re-enactment of section 3 of the Act and provide that,

- (a) operating and maintenance expenses related to social assets attributable to a specified uranium undertaking continue to be ineligible for deduction from an operator's profit; and
- (b) the current rates of depreciation continue to apply with respect to depreciable property attributable to the operation of specified uranium undertakings.

Subsection 2. The amendments to subsection 4 (5) of the Act are consequential upon the re-enactment of section 3 of the Act to up-date statutory references.

SECTION 5. The re-enactment of section 5 of the Act continues the current requirement to give notice of when a mine is in active operation, provides that the notice will be given to the Minister and clarifies when a mine will be considered to be in active operation.

SECTION 6. The amendment to subsection 6 (1) provides that the notice currently required to be given to the mine assessor prior to shipment of output from a mine will be given to the Minister instead of the mine assessor.

SECTION 7. The re-enactment of section 7 of the Act provides that the tax return currently required to be filed under subsection 7 (1) is to be delivered to the Minister, repeals the current provisions of subsection 7 (2) relating to demands for information from persons liable to pay tax and adopts by reference the provisions of the *Corporations Tax Act* relating to tax audits and requests for information for mining tax assessment purposes.

SECTION 8. The re-enactment of section 8 of the Act replaces the present tax assessment and refund provisions with assessment, refund and interest provisions that parallel the current provisions of the *Corporations Tax Act* to provide uniformity of administration with respect to taxes imposed in Ontario.

SECTION 9. The re-enactment of section 9 of the Act provides for the same time limits for issuing reassessments of tax as currently apply under the *Corporations Tax Act* and in addition, authorizes the Minister to reassess mining tax for prior years to disallow the deduction of pension plan contributions previously made by an operator if the operator subsequently withdraws the contributions from the pension plan.

SECTION 10. The re-enactment of section 10 of the Act adopts by reference the tax objection and appeal procedures of the *Corporations Tax Act* for the purpose of objecting to or appealing from mining tax assessments, to provide uniformity of tax objection and appeal procedures under Ontario taxing statutes.

SECTION 11. The re-enactment of section 11 of the Act maintains the requirement that every operator keep books of account of a sufficient nature to permit the determination of tax liability under the Act, and requires the operator to reimburse any expenses incurred by the Minister to examine the books of account when the operator has obtained the consent of the Minister to keep the books outside Ontario.

SECTION 12. The repeal of section 12 of the Act abolishes the office of mine assessor under the Act and is consequential upon the Treasurer's Budget proposal to reduce discretionary powers under the Act as well as the provisions of the Bill which transfer the authority to administer mining tax to the Minister of Revenue.

SECTION 13. The re-enactment of subsection 13 (1) maintains the authority to enter and inspect mines in connection with the administration of the Act.

SECTION 14. The re-enactment of section 15 of the Act removes a spent provision of the Act consequential upon the enactment of the *Assessment Amendment Act, 1973*, which abolished the imposition of property taxes on mining profits, and adds a new provision identical to section 97 of the *Corporations Tax Act* to permit the Minister at his or her discretion to accept a lesser amount in full satisfaction of taxes owing when special circumstances exist. The repeal of section 16 of the Act deletes a provision made redundant by section 8 of the *Ministry of Revenue Act* which authorizes remissions of tax by order of the Lieutenant Governor in Council on the recommendation of the Minister of Revenue, if the remission is in the public interest.

SECTION 15. The re-enactment of section 18 of the Act maintains the existing penalty for late payment of tax and parallels the provisions of the *Corporations Tax Act* with respect to other types of administrative penalties.

SECTIONS 16 and 17. The re-enactment of sections 19 and 20 of the Act parallel the provisions of the *Corporations Tax Act* with respect to the prosecution of offences under the Act.

SECTION 18. The re-enactment of section 21 of the Act adopts the legal remedies available to the Minister under the *Corporations Tax Act* to enforce payment and effect collection of unpaid taxes due under the Act, and provides for the expiry of unregistered liens under the current provisions of section 21 unless the lien is registered on title to the operator's property.

SECTION 19. The amendment to section 22 of the Act is consequential upon the enactment of the *Courts of Justice Act, 1984*.

SECTION 20. The repeal of sections 23 and 24 of the Act is consequential upon the proposed re-enactment of subsection 7 (1) and enactment of subsection 21 (1) of the Act by sections 7 and 18 of the Bill.

SECTION 21. The re-enactment of subsection 25 (1) to include a reference to subsection 11 (4) of the Act is consequential upon the proposed enactment of subsection 11 (4) by section 11 of the Bill.

SECTION 22. The re-enactment of section 26 is consequential upon the amendments to the Act proposed by the Bill.

SECTION 23. Transitional provisions are set out consequent upon the introduction of new administrative provisions relating to tax appeals, reassessments of tax and the abolition of the office of mine assessor.

Bill 189

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “assessment” includes a reassessment.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(aa) “associated corporations” has the meaning given to that expression by section 256 of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(3) Clause 1 (b) of the said Act is repealed and the following substituted therefor:

(b) “Deputy Minister” means the Deputy Minister of Revenue.

(4) Clauses 1 (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) “exploration and development expenditures” means any outlay or expense made or incurred that is,

(i) for the purpose of determining the existence, location, extent or quality of a mineral substance in Ontario,

(ii) for the purpose of bringing a mine in Ontario into production,

(iii) for the purpose of developing a mine in Ontario after the mine comes into production, including sinking or constructing a mine shaft,

mine haulage way or similar underground work designed for continuing use, and any extension thereof, or

- (iv) any outlay or expense referred to in subclause (i), (ii) or (iii) made or incurred pursuant to an agreement whereby the outlay or expense represents consideration for the acquisition of,

- (A) interest in a mine or in a right to mine a property, or

- (B) shares of the capital stock of a corporation or any interest in or right to acquire such shares,

but, for greater certainty, shall not include,

- (v) any consideration given for any mine, right to mine a property or any share or interest therein or right thereto, except as provided by subclause (iv), or

- (vi) any outlay or expense described in subclause (iv) to the extent that the outlay or expense was, by virtue of that subclause, an exploration and development expenditure of another operator;

- (ca) “fair market value” means the amount that could be expected to be realized on a sale in the open market by a willing seller to a willing buyer;

- (cb) “hedging” means the fixing of a price for output of a mine before delivery by means of a forward sale or a futures contract on a recognized commodity exchange, or the purchase or sale forward of a foreign currency related directly to the proceeds of the output of a mine, but does not include speculative currency hedging except to the extent that the hedging transaction determines the final price and proceeds for the output;

- (cc) “mine” means any opening in the ground, any working of the ground and any tailings source from or by which any mineral substance is taken, and comprises the mining claim, mining location and the whole parcel of land in which any such tailings source does or did exist or such workings are or have been carried on in Ontario;

- (d) “mineral substance” means every type and kind of ore, rock, mineral and tailings, whether organic or inorganic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, or natural gas or petroleum, or sodium chloride recovered by solution method;
- (da) “mining assets” means the plant, equipment, machinery and buildings acquired for the purpose of the extraction of mineral substances from the ground and ancillary activities, but does not include processing assets or social assets.

(5) Clauses 1 (e) and (f) of the said Act are repealed and the following substituted therefor:

- (e) “Minister” means the Minister of Revenue;
- (f) “Ministry” means the Ministry of Revenue.

(6) Clause 1 (g) of the said Act is repealed.

(7) Clauses 1 (h), (i), (j), (k) and (l) of the said Act are repealed and the following substituted therefor:

- (h) “operator” includes,
 - (i) a person who has the right to work a mine and win mineral substances therefrom, personally or through agents or servants or together with one or more other persons, and
 - (ii) a person who has the right to receive a share of the proceeds or the profits of a mine or who has an interest in a mine, whether as a member of a joint venture, as a member of a partnership, or as a beneficiary of a trust that has the right to work the mine and win mineral substances therefrom, but does not include any person whose only right or interest is the right to receive royalties;
- (i) “output” means,
 - (i) the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances are sold as such, or

- (ii) the product of a processing operation, where the mineral substances are raised, taken or gained from any mine in Ontario, if the processed product is sold;
- (j) “proceeds” means the total consideration that is received or is receivable from another person or persons, in any currency, whether in cash or non-cash form, from the output of the mine, including all by-products sold, or the amount determined in the prescribed manner, and all consideration received or receivable from hedging and future sales or forward sales of the output of the mine, converted at the date of receipt of the consideration to the equivalent in Canadian funds, if receivable in funds of another country;
- (k) “processing” means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining, fabricating of metallic mineral substances, manufacturing of non-metallic mineral substances if the manufacturing is carried on in Canada, and any combination thereof;
- (ka) “processing assets” means processing plants, machinery, equipment and structures acquired for the purpose of processing mineral substances and ancillary activities, but does not include,
 - (i) the value of spare parts held in inventory for such assets,
 - (ii) stockpiles or inventories of processed mineral substances,
 - (iii) assets used for the transportation of processed mineral substances to market, or
 - (iv) mining assets or social assets;
- (l) “social asset” means a tangible asset owned by an operator that is incidental to mining and processing operations and that relates directly to the provision of housing, recreational or service facilities, if the asset,
 - (i) is necessary to attract or retain employees, and
 - (ii) is available for the use of all employees.

(8) Section 1 of the said Act is further amended by adding thereto the following clause:

(n) "Treasurer" means the Treasurer of Ontario.

(9) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) For the purposes of this Act, in the determination of whether two or more persons are not dealing at arm's length, section 251 of the *Income Tax Act* (Canada) applies with necessary modifications.

Non-arm's
length

R.S.C. 1952,
c. 148

2. Section 2 of the said Act is repealed and the following substituted therefor:

2.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each taxation year for which such taxes are imposed pass and the estimated amount of the taxes payable under this Act for a taxation year shall be paid to the Treasurer not later than two months after the end of the taxation year.

When taxes
accrue and
when payable

(2) Every operator of a mine shall pay the amount, if any, by which the tax that the operator estimates to be payable in the return required under section 7 exceeds the amount paid under subsection (1), at the time the operator delivers the return under section 7.

Payment of
balance

3.—(1) Subsections 3 (1) to (14) of the said Act are repealed and the following substituted therefor:

(1) Every operator is liable for and shall pay a tax equal to 20 per cent of the amount by which the operator's profit, as determined under subsection (5), for the taxation year from all mines in which the operator has an interest, exceeds the lesser of,

Mining tax

- (a) the proportion of \$500,000 that the number of days in the taxation year is of 365; and
- (b) the aggregate of amounts determined under subsection (3) in respect of each mine in which the operator has an interest.

(2) For the purposes of this section, where two or more associated corporations are operators of one or more mines, the aggregate of the amounts deducted under subsection (1) by such corporations shall not exceed \$500,000.

Associated
corporations

Part
interest

(3) The amount determined under this subsection in respect of an operator's interest in a mine is the product of the operator's interest in the mine multiplied by the lesser of,

- (a) \$500,000; and
- (b) if applicable, the amount determined under subsection (4) in respect of the mine.

Part year
production

(4) Where a mine is out of production in a taxation year for sixty or more consecutive days, the amount determined under this subsection for the purpose of clause (3) (b) is that proportion of \$500,000 that the number of days in the taxation year that the mine has been in production is of 365.

Profit

(5) An operator's profit for the taxation year from all mines in which the operator has an interest is the amount, if any, by which,

- (a) the operator's proceeds for the taxation year from the mines, other than amounts included in the computation of tax payable under this Act for a prior taxation year,

exceeds the aggregate of,

- (b) expenses incurred by the operator in the taxation year that are not otherwise deductible under this subsection, to the extent that the expenses are attributable to the production of output from the mines;
- (c) the operator's operating and maintenance expenses incurred in the taxation year with respect to social assets in Ontario, other than social assets referred to in subsection 4 (2), after deducting therefrom all rents, fees, grants and other payments received by the operator during the taxation year in connection therewith;
- (d) administrative and overhead expenses incurred by the operator in the taxation year, to the extent they are reasonably attributable to the production or sale of output of the mines;
- (e) expenses incurred by the operator in the taxation year in respect of scientific research conducted in Canada or in respect of product use development research conducted in Canada, to the extent the research is related to output of the mines;

- (f) donations made by the operator in the taxation year for charitable, educational or benevolent purposes that are reasonably related to mining operations in Ontario;
- (g) an amount not in excess of the maximum amount deductible by the operator for the taxation year as determined under subsection (7) in respect of exploration and development expenditures;
- (h) an amount not in excess of the operator's allowance for depreciation for the taxation year calculated in accordance with subsection (6);
- (i) expenses and outlays incurred by the operator in the taxation year for the transportation of output from the mine to the point of delivery of the output to its purchaser;
- (j) such reserves and deductions as are prescribed; and
- (k) the operator's prescribed processing allowance for the taxation year.

(6) The operator's allowance for depreciation for a taxation year in respect of depreciable property is,

Calculation
of
allowance for
depreciation

- (a) an amount in respect of processing assets and assets for transporting processed mineral substances to market from the point at which processing is completed, not in excess of the lesser of,
 - (i) 15 per cent of the capital cost of the assets, computed as of the end of the taxation year, and
 - (ii) the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year);
- (b) an amount in respect of mining assets, other than mining assets for which an allowance for depreciation is calculated under clause (c), not in excess of the lesser of,
 - (i) the aggregate of 30 per cent of the capital cost, computed as of the end of the taxation year, of mining assets acquired after the 9th day of April, 1974, which have not been used

previously in mining operations and 15 per cent of the capital cost, computed as of the end of the taxation year, of any other mining assets, and

- (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year); and
- (c) where a mine is a new mine or a major expansion of an existing mine designated by the Minister for the purpose of this clause, an amount at the option of the operator, instead of the amount calculated under clause (b), in respect of mining assets acquired after the 7th day of March, 1978, and before completion of the project from a person dealing at arm's length for use in the new mine or the major expansion, not exceeding the lesser of,
 - (i) the operator's profit for the taxation year from the new mine or the major expansion calculated in the prescribed manner, and
 - (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year).

Exploration
and
development
expenditures

(7) For the purposes of clause (5) (g), the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures is the aggregate of,

- (a) exploration and development expenditures incurred in Ontario by the operator to the extent that such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred; and
- (b) exploration and development expenditures incurred by another person to the extent that,
 - (i) such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred by the other person, and
 - (ii) such expenditures qualify to be renounced and have been renounced by the other person

in favour of the operator under subdivision e of Division B of Part I of the *Income Tax Act* (Canada) and have not been deducted by the other person under this Act or in the calculation of taxable income of the other person under Part I of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

less the aggregate of,

- (c) all amounts deducted under this Act by the operator in any previous taxation year in respect of exploration and development expenditures;
- (d) all amounts allowed as eligible exploration expenses under the *Ontario Mineral Exploration Program Act*;
- (e) the amount of any assistance or benefit from a government, municipality or other public authority in respect thereto, including any grant, subsidy, forgivable loan, investment allowance or other form of assistance or benefit received or receivable by the operator, other than a grant or tax credit under the *Ontario Mineral Exploration Program Act*; and
- (f) all exploration and development expenditures that qualify to be renounced and have been renounced by the operator in favour of another person under subdivision e of Division B of Part I of the *Income Tax Act* (Canada).

R.S.O. 1980,
c. 346

(8) For the purposes of this section, where an operator has deducted an amount under subsection 127 (5) of the *Income Tax Act* (Canada) in respect of depreciable property or has received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan or any other form of assistance, the capital cost of the property shall be deemed to be the amount by which the aggregate of,

Reduction of
capital cost

- (a) the capital cost thereof to the operator determined without reference to this subsection; and
- (b) the part, if any, of the assistance that has been repaid by the operator before the disposition thereof by the operator,

exceeds the aggregate of,

- R.S.C. 1952,
c. 148
- (c) all amounts deducted under subsection 127 (5) of the *Income Tax Act* (Canada); and
 - (d) the amount of assistance the operator has received or is entitled to receive in respect of that property before the disposition thereof by the operator.

- Non-al-
lowable
deductions
- (9) No allowance or deduction shall be claimed or made under this section in respect of,
- (a) an outlay, loss or replacement of capital, a payment on account of capital or an amount in respect of depreciation, amortization, obsolescence or depletion, unless expressly permitted by this Act;
 - (b) interest or dividends paid;
 - (c) royalties for the right to extract mineral substances, or use real property in connection with the extraction of mineral substances, paid to any person other than Her Majesty in Right of Canada or Ontario; and
 - (d) any income or profits tax and any tax on capital paid to any jurisdiction.

- Undepre-
ciated
capital cost
- (10) The undepreciated capital cost of any depreciable property at any time means the amount by which the aggregate of,
- (a) the capital cost of the property acquired before that time; and
 - (b) all amounts included in profit by virtue of subsection (11) for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total of the amounts deducted under this Act before that time as an allowance for depreciation with respect to the property; and
- (d) for each disposition of the property or part thereof, the lesser of,
 - (i) the proceeds of disposition of the property or part, and
 - (ii) the capital cost of the property or part.

(11) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses (10) (c) and (d) exceeds the aggregate of all amounts determined under clauses (10) (a) and (b), the excess shall be deemed to be proceeds for the purposes of clause (5) (a). Recapture

(12) Where any property is acquired from or transferred to a person not dealing at arm's length with the operator, the capital cost of the property to the purchaser for the purposes of this Act and the proceeds of disposition of the property for the purposes of this Act shall be deemed to be, Where not dealing at arm's length

- (a) the amount or amounts determined in the prescribed manner where the property is depreciable property referred to in subsection (6); and
- (b) fair market value where the property is not depreciable property referred to in subsection (6).

(13) Where output from a mine is sold to a purchaser who does not deal at arm's length with the operator, the amount of the proceeds for the purposes of clause (5) (a) shall be deemed to be the fair market value of the output. Idem

(14) Where any goods or services are obtained or acquired from a supplier who does not deal at arm's length with the operator for an amount that exceeds the fair market value of the goods or services, no amount in excess of the fair market value of the goods or services shall be deductible under subsection (5). Idem

(2) Subsections 3 (15) and (16) of the said Act are repealed.

4.—(1) Subsections 4 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(2) No deduction shall be made under clause 3 (5) (c) for operating and maintenance expenses related to social assets in Ontario that are attributable to a specified uranium undertaking. No deduction for certain operating and maintenance expenses

(3) Notwithstanding subsection 3 (6),

- (a) no deduction shall be made under clause 3 (5) (h) in respect of processing assets not situate in Canada and assets for transporting processed mineral substances to market from the point at which the processing outside Canada is completed that are attributable to the operation of a specified uranium undertaking;

Allowance for depreciation

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situate in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than 15 per cent of the capital cost of the assets as of the end of the taxation year, and
 - (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and
- (c) clause 3 (6) (c) does not apply for the purposes of determining an allowance for depreciation with respect to mining assets used in the operation of a specified uranium undertaking.

(2) Subsection 4 (5) of the said Act is amended by striking out “clause 3 (7) (n)” in the first line and inserting in lieu thereof “clause 3 (5) (g)” and by striking out “subclauses (i) and (ii) of” in the third line.

5. Section 5 of the said Act is repealed and the following substituted therefor:

Duty to give
notice of
active
operation

5.—(1) The operators of a mine from which any mineral substance is raised, taken or gained shall, within ten days after the commencement of active operation of the mine, give written notice to the Minister that the mine is in active operation, and such notice shall state the name and address of every operator of the mine.

Notice of
change

(2) Every operator of a mine that is in active operation shall forthwith give written notice to the Minister of every change in the operator's name or address and such notice shall contain an address for service of the operator where notices or demands under this Act may be given or served.

Service
of notice

(3) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or served on the operator if mailed by registered mail to the address for service given by the operator, and in case no

address for service is given as herein required, the notice or demand shall be sufficiently given or served if mailed by registered mail to any address that the Minister considers most likely to bring the notice or demand to the attention of the operator.

(4) The operators of a mine shall forthwith give written notice to the Minister of every discontinuance of active operation of the mine and of every recommencement thereof after discontinuance.

Notice of
discon-
tinuance

(5) For the purposes of this section and section 6, a mine is in active operation when any operator thereof is regularly entitled to receive proceeds from the output of the mine.

Meaning of
"active
operation"

6. Subsection 6 (1) of the said Act is amended by striking out "mine assessor" in the fifth line and inserting in lieu thereof "Minister".

7.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) On or before the last day of the month that ends six months following the close of the taxation year, every operator of a mine in Ontario shall, without notice or demand, deliver to the Minister a return containing an estimate of the tax for which the operator is liable and the return shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under this Act, and such certificate shall be signed by a person who has personal knowledge of the affairs of the operator and the mine, but the Minister may require the person who certified the return to verify under oath the return or any part thereof, and any person so required shall forthwith make and file with the Minister an affidavit verifying the truth of the matters and facts contained in the return.

Returns

(2) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) Section 86 of the *Corporations Tax Act*, other than clause (1) (d) and subsection (4) thereof, applies for the purposes of this Act and in the application thereof,

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R.S.O. 1980,
c. 97

- (a) references to the corporation liable to pay tax under that Act shall be read as references to the operator under this Act; and

- (b) the reference in clause 86 (2) (a) to “a return as required by section 67” shall be read as “a return as required under this Act”.

8. Section 8 of the said Act is repealed and the following substituted therefor:

Notice of
assessment

8.—(1) The Minister shall with all due dispatch examine each return delivered under section 7 together with any other information furnished under this Act and shall assess the tax for the taxation year and the interest and penalties, if any, payable.

Interest on
unpaid tax

(2) Where the amount paid on account of the tax payable by the operator for a taxation year is less than the amount of tax payable for the taxation year, the operator liable to pay the tax shall pay interest on the difference between,

(a) the amount of tax payable for the taxation year; and

(b) the amount paid on account of the tax payable for the taxation year,

from the day on which the estimated amount of the tax payable for the taxation year is required to be paid under subsection 2 (1) to the day of payment of the tax, at the prescribed rate.

Interpretation

(3) For the purposes of subsections (2) and (9), the “amount paid on account of the tax payable” is the amount paid by the operator on account of the tax payable for the taxation year minus any amounts refunded to the operator or any amounts applied to other liability of the operator.

Idem

(4) For the purposes of subsections (2), (3) and (9), the “amount of tax payable” for a taxation year includes any penalty payable by the operator for the taxation year.

Assessments
and refunds
R.S.O. 1980,
c. 97

(5) Subsections 73 (5), (6), (9) and (10), section 74 and subsections 75 (1) and (2) of the *Corporations Tax Act* apply for the purposes of this Act and in the application thereof,

(a) references to the “corporation” shall be read as references to the “operator”;

(b) the reference to subsections 73 (5) and (9) of that Act in subsection 74 (2) shall be deemed to be a reference to those subsections as made applicable for the purposes of this Act;

- (c) the reference to "section 67" of that Act in subsection 75 (1) shall be read as "section 7" of this Act; and
- (d) the reference in subsection 75 (1) to special small corporations and to the payment of the balance of tax as required under sub-subclause 70 (2) (b) (i) (B) of that Act shall not be applicable.

(6) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at the prescribed rate shall be paid or applied thereon for the period commencing with the later of,

Interest on overpayments

- (a) the day on which the overpayment arose; and
- (b) the day on or before which the balance of the tax payable for the taxation year is required to be paid under this Act.

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

(7) Where by a decision of the Minister after the filing of an objection under section 10 or of a court it is finally determined that the tax payable under this Act by an operator for a taxation year is less than the amount assessed to which objection was made or from which the appeal was taken and the effect of the decision is that an overpayment has been made for the taxation year, the interest payable under subsection (6) on that overpayment shall be computed at the prescribed rate.

Idem

(8) Where an amount has been paid with respect to the provisions of section 92 of the *Corporations Tax Act*, as made applicable for the purposes of this Act, and the tax payable under this Act for the taxation year as finally determined is less than the payment, the interest payable on that overpayment shall be computed at such rate as is prescribed for the purposes of subsection (7) as though the day on which the overpayment arose is the day upon which the payment was made.

Idem

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c. 97

(9) Except as provided in subsection (8), "overpayment" means the aggregate of all amounts paid on account of tax payable for a taxation year less all amounts payable under this Act, or an amount so paid where no amount is payable under this Act.

Interpretation

Application
of payments
received
R.S.O. 1980,
c. 97

(10) Subsection 70 (6) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the references to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.

9. Section 9 of the said Act is repealed and the following substituted therefor:

Reassessment

9.—(1) The Minister may,

- (a) at any time, if the operator filing a return,
 - (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
 - (ii) has failed to file the financial information with the return required to be filed under section 7, or
 - (iii) has been negligent in supplying any information under this Act, or
 - (iv) has filed with the Minister a waiver in the prescribed form within six years from the day of mailing of the notice of an original assessment; and
- (b) within six years of the day of mailing of the original notice of assessment in any other case,

reassess or make additional assessments, or assess a tax, interest or penalties, as the circumstances require.

Revocation
of waiver

(2) Where the Minister is authorized to issue an assessment under subsection (1) by reason only that the operator has filed a waiver under subclause (1) (a) (iv), the Minister may not issue an assessment later than one year after the date on which the operator has filed a notice of revocation of the waiver in the prescribed form.

Pension plan
withdrawals

(3) Notwithstanding subsection (1), where any amount is withdrawn by an operator from an employees' superannuation or pension fund or plan, the Minister may reassess the amount of tax payable by the operator under this Act for a maximum of ten taxation years immediately preceding the taxation year in which the withdrawal is made, and may disallow the deduction of all or any part of the amounts previously deducted by the operator in the calculation of the profit of the mine for

such taxation years with respect to contributions made by the operator and any predecessor thereof to such fund or plan, but in no case shall the total of the amounts disallowed for such taxation years exceed the lesser of the amount withdrawn from the fund or plan and the amount of such contributions to the fund or plan as determined in the prescribed manner.

10. Section 10 of the said Act is repealed and the following substituted therefor:

10. Sections 77, 78, 79, 80, 81, 82, 83 and 84 of the *Corporations Tax Act* apply for the purposes of this Act, and in the application thereof the following rules apply:

Objections
and appeals
R.S.O. 1980,
c. 97

1. References therein to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.
2. The reference to section 73 of that Act in subsection 77 (1) and clause 77 (6) (a) shall be read as a reference to sections 8 and 9 of this Act.
3. The reference in subsection 77 (5) to “clause 73 (7) (b) or (c)” shall be deemed to be a reference to clause 9 (1) (b) of this Act.
4. Clause 77 (6) (b) is not applicable for the purposes of this Act.
5. Clause 77 (6) (d) shall be read without reference to the words “if section 85 does not apply”.
6. All references therein to sections 77, 78 and 80 of that Act, and subsections thereof as applicable, shall be deemed to be references to those sections and subsections as made applicable by this section.
7. The reference to subsection 73 (10) in section 79 shall be deemed to be a reference to that subsection as made applicable by section 8 of this Act.

11. Section 11 of the said Act is repealed and the following substituted therefor:

11.—(1) Every operator shall keep at or near the mine, or at such place determined under subsection (3), proper books of account showing,

Books of
account

- (a) the quantity, weight, value, composition and other particulars of the mineral substances raised, taken or gained from the mine;
- (b) the returns from the processing plant;
- (c) the proceeds from the output of the mine;
- (d) each of the several expenses, payments and allowances deducted pursuant to section 3; and
- (e) any other facts and circumstances necessary or proper for ascertaining the amount of tax imposed by this Act.

Removal of
mineral
substances
from mining
premises

(2) No mineral substance raised, taken or gained from any mine shall be removed from the mining premises or processed at any processing plant until the weight of the mineral substance has been ascertained and entered in the books of account required to be kept under subsection (1).

Idem

(3) The Minister may determine the number and character of books required to be kept under subsection (1) and may require that the books of account mentioned in subsection (1) be kept at such place in Ontario as the Minister determines.

Costs

(4) Where the Minister permits books of account to be kept outside of Ontario, all costs incurred by the Minister to examine such books at the place where they are kept shall be reimbursed by the operator and the Minister may forthwith take all remedies available under this Act or at law to recover such costs.

Retention
of books
of account
R.S.O. 1980,
c. 97

(5) Subsection 87 (3) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the reference to "every corporation" shall be read as "every operator".

12. Section 12 of the said Act is repealed.

13. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Entry to
mine

(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter upon any mine in Ontario and the operator of the mine shall,

- (a) permit such person to descend all pits and shafts and use all tackle, machinery, appliances and things

belonging to or under the control of the operator that the person considers necessary or expedient for the purposes of carrying out his or her duties under this subsection;

- (b) give to such person free ingress and egress to, from and over all buildings, erections, structures and vessels used in connection with the mine and any processing plant at which mineral substance taken from the mine is processed or in any way modified; and
- (c) permit the person to take such samples or specimens of mineral substance as the person considers necessary for the purpose of determining their value by assay or otherwise.

14. Sections 15 and 16 of the said Act are repealed and the following substituted therefor:

15. If any doubt or dispute arises as to the liability of an operator to pay the tax or any portion of the tax demanded under this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as the Minister considers proper.

Compromising disputes as to liability for tax

15. Section 18 of the said Act is repealed and the following substituted therefor:

18.—(1) Every operator who fails to pay any tax imposed under this Act or any estimate of tax required to be paid under this Act at the time provided is liable to a penalty of 10 per cent of the amount unpaid plus an additional penalty of 10 per cent of the amount unpaid for each twelve month period that the tax or estimate of tax remains unpaid.

Penalty for failure to pay tax

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay a penalty of,

Penalty

- (a) an amount equal to 10 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the operator for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$1,000, if at the time the return was required to be delivered tax payable by the operator equal to \$10,000 or more was unpaid.

Failure to
complete
return

(3) Every operator who fails to complete the information required on the return to be delivered under section 7 is liable to a penalty of 1 per cent of the tax payable by the operator under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of an operator, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the operator is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by the operator under this Act if the operator's profit for the taxation year was computed by adding to the operator's profit for the taxation year as reported by the operator in the return for the year that portion of the understatement of profit for the taxation year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by the operator under this Act had the tax payable for the taxation year been assessed on the basis of the information provided in the operator's return for the taxation year.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Offences

19.—(1) Every operator that fails to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day of default.

Idem
R.S.O. 1980,
c. 97

(2) Every person who fails to comply with or contravenes subsection 86 (8) of the *Corporations Tax Act*, as made applicable by subsection 7 (2) of this Act, section 11 or subsection 13 (1), is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$25 for each day during which the default or contravention continues.

(3) Sections 89 and 90 of the *Corporations Tax Act* apply for the purposes of this Act. Officers of corporations

17. Section 20 of the said Act is repealed and the following substituted therefor:

20. Every person who has,

False statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of an operator;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of an operator;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

18. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) Subsections 92 (1), (2), (4) and (5) and sections 93, 94, 94a, 94b, 94c and 95 of the *Corporations Tax Act* apply with necessary modifications for the purposes of this Act and, without limiting the generality of the foregoing, references therein to “a corporation” and “the corporation” with respect to a person liable to pay an amount under that Act

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shall be read as “an operator” and “the operator” for the purposes of this Act.

Unregistered
liens
discharged

(2) Any property of any kind that is, by virtue of any predecessor of this section, subject to a first lien and charge that is not registered in the proper land registry office, is absolutely discharged from such unregistered first lien and charge unless, in the case of real property, in any proceeding a claim has been made or other steps taken by the Minister with respect to such unregistered first lien and charge or, prior to the 1st day of January, 1988, a notice of such first lien and charge has been registered by the Minister in the proper land registry office.

19. Section 22 of the said Act is amended by striking out “county or district court” in the ninth line and inserting in lieu thereof “District Court”.

20. Sections 23 and 24 of the said Act are repealed.

21. Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Action to
recover
tax, etc.

(1) If any tax, interest or penalty imposed by this Act or the reimbursement required under subsection 11 (4) is not paid when due, the same may be recovered with costs from the operator by an action to be tried without a jury at the suit of the Minister in any court of competent jurisdiction.

22. Section 26 of the said Act is repealed and the following substituted therefor:

Regulations

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rates of interest for the purposes of this Act or a formula for computing those rates and the method of calculating that interest;
- (b) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations;
- (d) defining any word or expression used in this Act or the regulations made under this Act that has not already been expressly defined in this Act;

- (e) prescribing forms and providing for their use;
- (f) prescribing the manner of determining the profit for the taxation year of an operator who is a member of a partnership or a beneficiary of a trust where the partnership or trust is operating a mine; and
- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of clause 3 (6) (c) and the time at which a mine project is completed.

(2) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Regulation
may be
retroactive

23.—(1) Where,

Transitional

- (a) a person has delivered to the Minister, before the 15th day of May, 1986, a written notice of appeal within the time required under subsection 10 (1) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986; and
- (b) the appeal referred to in clause (a) has not been, before the 15th day of May, 1986,
 - (i) referred to the Mining and Lands Commissioner or the Ontario Municipal Board under subsection 10 (2) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986, or
 - (ii) set down for hearing and determination by the Divisional Court under subsection 10 (4) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986,

the written notice of appeal shall be deemed to be a notice of objection served on the Minister for the purposes of the application of sections 8 and 10 of the *Mining Tax Act*, as re-enacted by sections 8 and 10 respectively of this Act.

(2) All references in the provisions of the *Mining Tax Act* as they read immediately before the day this Act receives Royal Assent and which remain applicable in respect of taxation years ending on or before the 31st day of March, 1986, and in

Idem

the regulations made under the said Act, to the “mine assessor” shall be deemed to be references to the “Minister”.

Idem

(3) In the application of section 9 of the *Mining Tax Act*, as re-enacted by section 9 of this Act,

- (a) where an assessment, reassessment or additional assessment is made on or before the day this Act receives Royal Assent, references in section 9, as re-enacted, to the “Minister” shall be deemed to be references to the “mine assessor”;
- (b) where an assessment, reassessment or additional assessment is made in respect of a taxation year ending before the 1st day of April, 1986, references in subclause 9 (1) (a) (iv) and clause 9 (1) (b) to “six years” shall be read as references to “four years”; and
- (c) subsection 9 (3) applies only in respect of amounts withdrawn from an employees’ superannuation or pension fund or plan after the 31st day of March, 1986.

Commencement
and
application

24.—(1) This Act, except as provided in subsections (2) to (7), comes into force on the day it receives Royal Assent.

Idem

(2) Section 19 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

(3) Subsections 1 (2), (4), (7) to (9) and section 2 of this Act, subsections 3 (1) to (11) of the said Act, as re-enacted by subsection 3 (1) of this Act, subsection 3 (2), section 4 and subsection 7 (1) of this Act shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Subsection 3 (12) to (14) of the said Act, as re-enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of acquisitions, transfers, dispositions and sales made after the 31st day of March, 1986.

Idem

(5) Section 9 shall be deemed to have come into force on the 1st day of April, 1986, and applies in respect of assessments, reassessments and additional assessments made after the 31st day of March in respect of any taxation year.

Idem

(6) Subsections 1 (3) and (5) shall be deemed to have come into force on the 15th day of May, 1986.

(7) Section 10 shall be deemed to have come into force on ^{Idem} the 15th day of May, 1986, and applies in respect of assessments issued after the 14th day of April, 1986.

25. The short title of this Act is the *Mining Tax Amendment* ^{Short title} Act, 1987.

27N

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Bill 189

2ND SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 189

(Chapter 11
Statutes of Ontario, 1987)

An Act to amend the Mining Tax Act

The Hon. R. Nixon
Minister of Revenue



<i>1st Reading</i>	January 28th, 1987
<i>2nd Reading</i>	February 9th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 189

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (a) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “assessment” includes a reassessment.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(aa) “associated corporations” has the meaning given to that expression by section 256 of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(3) Clause 1 (b) of the said Act is repealed and the following substituted therefor:

(b) “Deputy Minister” means the Deputy Minister of Revenue.

(4) Clauses 1 (c) and (d) of the said Act are repealed and the following substituted therefor:

(c) “exploration and development expenditures” means any outlay or expense made or incurred that is,

(i) for the purpose of determining the existence, location, extent or quality of a mineral substance in Ontario,

(ii) for the purpose of bringing a mine in Ontario into production,

(iii) for the purpose of developing a mine in Ontario after the mine comes into production, including sinking or constructing a mine shaft,

mine haulage way or similar underground work designed for continuing use, and any extension thereof, or

- (iv) any outlay or expense referred to in subclause (i), (ii) or (iii) made or incurred pursuant to an agreement whereby the outlay or expense represents consideration for the acquisition of,

- (A) interest in a mine or in a right to mine a property, or

- (B) shares of the capital stock of a corporation or any interest in or right to acquire such shares,

but, for greater certainty, shall not include,

- (v) any consideration given for any mine, right to mine a property or any share or interest therein or right thereto, except as provided by subclause (iv), or

- (vi) any outlay or expense described in subclause (iv) to the extent that the outlay or expense was, by virtue of that subclause, an exploration and development expenditure of another operator;

(ca) “fair market value” means the amount that could be expected to be realized on a sale in the open market by a willing seller to a willing buyer;

(cb) “hedging” means the fixing of a price for output of a mine before delivery by means of a forward sale or a futures contract on a recognized commodity exchange, or the purchase or sale forward of a foreign currency related directly to the proceeds of the output of a mine, but does not include speculative currency hedging except to the extent that the hedging transaction determines the final price and proceeds for the output;

(cc) “mine” means any opening in the ground, any working of the ground and any tailings source from or by which any mineral substance is taken, and comprises the mining claim, mining location and the whole parcel of land in which any such tailings source does or did exist or such workings are or have been carried on in Ontario;

- (d) “mineral substance” means every type and kind of ore, rock, mineral and tailings, whether organic or inorganic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, or natural gas or petroleum, or – sodium chloride recovered by solution method;
- (da) “mining assets” means the plant, equipment, machinery and buildings acquired for the purpose of the extraction of mineral substances from the ground and ancillary activities, but does not include processing assets or social assets.

(5) Clauses 1 (e) and (f) of the said Act are repealed and the following substituted therefor:

- (e) “Minister” means the Minister of Revenue;
- (f) “Ministry” means the Ministry of Revenue.

(6) Clause 1 (g) of the said Act is repealed.

(7) Clauses 1 (h), (i), (j), (k) and (l) of the said Act are repealed and the following substituted therefor:

- (h) “operator” includes,
 - (i) a person who has the right to work a mine and win mineral substances therefrom, personally or through agents or servants or together with one or more other persons, and
 - (ii) a person who has the right to receive a share of the proceeds or the profits of a mine or who has an interest in a mine, whether as a member of a joint venture, as a member of a partnership, or as a beneficiary of a trust that has the right to work the mine and win mineral substances therefrom, but does not include any person whose only right or interest is the right to receive royalties;
- (i) “output” means,
 - (i) the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances are sold as such, or

- (ii) the product of a processing operation, where the mineral substances are raised, taken or gained from any mine in Ontario, if the processed product is sold;
- (j) “proceeds” means the total consideration that is received or is receivable from another person or persons, in any currency, whether in cash or non-cash form, from the output of the mine, including all by-products sold, or the amount determined in the prescribed manner, and all consideration received or receivable from hedging and future sales or forward sales of the output of the mine, converted at the date of receipt of the consideration to the equivalent in Canadian funds, if receivable in funds of another country;
- (k) “processing” means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining, fabricating of metallic mineral substances, manufacturing of non-metallic mineral substances if the manufacturing is carried on in Canada, and any combination thereof;
- (ka) “processing assets” means processing plants, machinery, equipment and structures acquired for the purpose of processing mineral substances and ancillary activities, but does not include,
 - (i) the value of spare parts held in inventory for such assets,
 - (ii) stockpiles or inventories of processed mineral substances,
 - (iii) assets used for the transportation of processed mineral substances to market, or
 - (iv) mining assets or social assets;
- (l) “social asset” means a tangible asset owned by an operator that is incidental to mining and processing operations and that relates directly to the provision of housing, recreational or service facilities, if the asset,
 - (i) is necessary to attract or retain employees, and
 - (ii) is available for the use of all employees.

(8) Section 1 of the said Act is further amended by adding thereto the following clause:

(n) "Treasurer" means the Treasurer of Ontario.

(9) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) For the purposes of this Act, in the determination of whether two or more persons are not dealing at arm's length, section 251 of the *Income Tax Act* (Canada) applies with necessary modifications.

Non-arm's
length

R.S.C. 1952,
c. 148

2. Section 2 of the said Act is repealed and the following substituted therefor:

2.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each taxation year for which such taxes are imposed pass and the estimated amount of the taxes payable under this Act for a taxation year shall be paid to the Treasurer not later than two months after the end of the taxation year.

When taxes
accrue and
when payable

(2) Every operator of a mine shall pay the amount, if any, by which the tax that the operator estimates to be payable in the return required under section 7 exceeds the amount paid under subsection (1), at the time the operator delivers the return under section 7.

Payment of
balance

3.—(1) Subsections 3 (1) to (14) of the said Act are repealed and the following substituted therefor:

(1) Every operator is liable for and shall pay a tax equal to 20 per cent of the amount by which the operator's profit, as determined under subsection (5), for the taxation year from all mines in which the operator has an interest, exceeds the lesser of,

Mining tax

- (a) the proportion of \$500,000 that the number of days in the taxation year is of 365; and
- (b) the aggregate of amounts determined under subsection (3) in respect of each mine in which the operator has an interest.

(2) For the purposes of this section, where two or more associated corporations are operators of one or more mines, the aggregate of the amounts deducted under subsection (1) by such corporations shall not exceed \$500,000.

Associated
corporations

Part
interest

(3) The amount determined under this subsection in respect of an operator's interest in a mine is the product of the operator's interest in the mine multiplied by the lesser of,

- (a) \$500,000; and
- (b) if applicable, the amount determined under subsection (4) in respect of the mine.

Part year
production

(4) Where a mine is out of production in a taxation year for sixty or more consecutive days, the amount determined under this subsection for the purpose of clause (3) (b) is that proportion of \$500,000 that the number of days in the taxation year that the mine has been in production is of 365.

Profit

(5) An operator's profit for the taxation year from all mines in which the operator has an interest is the amount, if any, by which,

- (a) the operator's proceeds for the taxation year from the mines, other than amounts included in the computation of tax payable under this Act for a prior taxation year,

exceeds the aggregate of,

- (b) expenses incurred by the operator in the taxation year that are not otherwise deductible under this subsection, to the extent that the expenses are attributable to the production of output from the mines;
- (c) the operator's operating and maintenance expenses incurred in the taxation year with respect to social assets in Ontario, other than social assets referred to in subsection 4 (2), after deducting therefrom all rents, fees, grants and other payments received by the operator during the taxation year in connection therewith;
- (d) administrative and overhead expenses incurred by the operator in the taxation year, to the extent they are reasonably attributable to the production or sale of output of the mines;
- (e) expenses incurred by the operator in the taxation year in respect of scientific research conducted in Canada or in respect of product use development research conducted in Canada, to the extent the research is related to output of the mines;

- (f) donations made by the operator in the taxation year for charitable, educational or benevolent purposes that are reasonably related to mining operations in Ontario;
- (g) an amount not in excess of the maximum amount deductible by the operator for the taxation year as determined under subsection (7) in respect of exploration and development expenditures;
- (h) an amount not in excess of the operator's allowance for depreciation for the taxation year calculated in accordance with subsection (6);
- (i) expenses and outlays incurred by the operator in the taxation year for the transportation of output from the mine to the point of delivery of the output to its purchaser;
- (j) such reserves and deductions as are prescribed; and
- (k) the operator's prescribed processing allowance for the taxation year.

(6) The operator's allowance for depreciation for a taxation year in respect of depreciable property is,

Calculation
of
allowance for
depreciation

- (a) an amount in respect of processing assets and assets for transporting processed mineral substances to market from the point at which processing is completed, not in excess of the lesser of,
 - (i) 15 per cent of the capital cost of the assets, computed as of the end of the taxation year, and
 - (ii) the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year);
- (b) an amount in respect of mining assets, other than mining assets for which an allowance for depreciation is calculated under clause (c), not in excess of the lesser of,
 - (i) the aggregate of 30 per cent of the capital cost, computed as of the end of the taxation year, of mining assets acquired after the 9th day of April, 1974, which have not been used

previously in mining operations and 15 per cent of the capital cost, computed as of the end of the taxation year, of any other mining assets, and

- (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year); and
- (c) where a mine is a new mine or a major expansion of an existing mine designated by the Minister for the purpose of this clause, an amount at the option of the operator, instead of the amount calculated under clause (b), in respect of mining assets acquired after the 7th day of March, 1978, and before completion of the project from a person dealing at arm's length for use in the new mine or the major expansion, not exceeding the lesser of,
 - (i) the operator's profit for the taxation year from the new mine or the major expansion calculated in the prescribed manner, and
 - (ii) the undepreciated capital cost of the mining assets as of the end of the taxation year (before making any deduction calculated under this clause for the taxation year).

Exploration
and
development
expenditures

(7) For the purposes of clause (5) (g), the maximum amount deductible by an operator for a taxation year in respect of exploration and development expenditures is the aggregate of,

- (a) exploration and development expenditures incurred in Ontario by the operator to the extent that such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred; and
- (b) exploration and development expenditures incurred by another person to the extent that,
 - (i) such expenditures qualified as exploration and development expenditures under this Act at the time they were incurred by the other person, and
 - (ii) such expenditures qualify to be renounced and have been renounced by the other person

in favour of the operator under subdivision e of Division B of Part I of the *Income Tax Act* (Canada) and have not been deducted by the other person under this Act or in the calculation of taxable income of the other person under Part I of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

less the aggregate of,

- (c) all amounts deducted under this Act by the operator in any previous taxation year in respect of exploration and development expenditures;
- (d) all amounts allowed as eligible exploration expenses under the *Ontario Mineral Exploration Program Act*; R.S.O. 1980,
c. 346
- (e) the amount of any assistance or benefit from a government, municipality or other public authority in respect thereto, including any grant, subsidy, forgivable loan, investment allowance or other form of assistance or benefit received or receivable by the operator, other than a grant or tax credit under the *Ontario Mineral Exploration Program Act*; and
- (f) all exploration and development expenditures that qualify to be renounced and have been renounced by the operator in favour of another person under subdivision e of Division B of Part I of the *Income Tax Act* (Canada).

(8) For the purposes of this section, where an operator has deducted an amount under subsection 127 (5) of the *Income Tax Act* (Canada) in respect of depreciable property or has received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan or any other form of assistance, the capital cost of the property shall be deemed to be the amount by which the aggregate of,

Reduction of
capital cost

- (a) the capital cost thereof to the operator determined without reference to this subsection; and
- (b) the part, if any, of the assistance that has been repaid by the operator before the disposition thereof by the operator,

exceeds the aggregate of,

R.S.C. 1952,
c. 148

(c) all amounts deducted under subsection 127 (5) of the *Income Tax Act* (Canada); and

(d) the amount of assistance the operator has received or is entitled to receive in respect of that property before the disposition thereof by the operator.

Non-al-
lowable
deductions

(9) No allowance or deduction shall be claimed or made under this section in respect of,

(a) an outlay, loss or replacement of capital, a payment on account of capital or an amount in respect of depreciation, amortization, obsolescence or depletion, unless expressly permitted by this Act;

(b) interest or dividends paid;

(c) royalties for the right to extract mineral substances, or use real property in connection with the extraction of mineral substances, paid to any person other than Her Majesty in Right of Canada or Ontario; and

(d) any income or profits tax and any tax on capital paid to any jurisdiction.

Undepre-
ciated
capital cost

(10) The undepreciated capital cost of any depreciable property at any time means the amount by which the aggregate of,

(a) the capital cost of the property acquired before that time; and

(b) all amounts included in profit by virtue of subsection (11) for a taxation year ending prior to that time,

exceeds the aggregate of,

(c) the total of the amounts deducted under this Act before that time as an allowance for depreciation with respect to the property; and

(d) for each disposition of the property or part thereof, the lesser of,

(i) the proceeds of disposition of the property or part, and

(ii) the capital cost of the property or part.

(11) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses (10) (c) and (d) exceeds the aggregate of all amounts determined under clauses (10) (a) and (b), the excess shall be deemed to be proceeds for the purposes of clause (5) (a). Recapture

(12) Where any property is acquired from or transferred to a person not dealing at arm's length with the operator, the capital cost of the property to the purchaser for the purposes of this Act and the proceeds of disposition of the property for the purposes of this Act shall be deemed to be, Where not dealing at arm's length

(a) the amount or amounts determined in the prescribed manner where the property is depreciable property referred to in subsection (6); and

(b) fair market value where the property is not depreciable property referred to in subsection (6).

(13) Where output from a mine is sold to a purchaser who does not deal at arm's length with the operator, the amount of the proceeds for the purposes of clause (5) (a) shall be deemed to be the fair market value of the output. Idem

(14) Where any goods or services are obtained or acquired from a supplier who does not deal at arm's length with the operator for an amount that exceeds the fair market value of the goods or services, no amount in excess of the fair market value of the goods or services shall be deductible under subsection (5). Idem

(2) Subsections 3 (15) and (16) of the said Act are repealed.

4.—(1) Subsections 4 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(2) No deduction shall be made under clause 3 (5) (c) for operating and maintenance expenses related to social assets in Ontario that are attributable to a specified uranium undertaking. No deduction for certain operating and maintenance expenses

(3) Notwithstanding subsection 3 (6), Allowance for depreciation

(a) no deduction shall be made under clause 3 (5) (h) in respect of processing assets not situate in Canada and assets for transporting processed mineral substances to market from the point at which the processing outside Canada is completed that are attributable to the operation of a specified uranium undertaking;

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situate in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than 15 per cent of the capital cost of the assets as of the end of the taxation year, and
 - (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and
- (c) clause 3 (6) (c) does not apply for the purposes of determining an allowance for depreciation with respect to mining assets used in the operation of a specified uranium undertaking.

(2) Subsection 4 (5) of the said Act is amended by striking out “clause 3 (7) (n)” in the first line and inserting in lieu thereof “clause 3 (5) (g)” and by striking out “subclauses (i) and (ii) of” in the third line.

5. Section 5 of the said Act is repealed and the following substituted therefor:

Duty to give
notice of
active
operation

5.—(1) The operators of a mine from which any mineral substance is raised, taken or gained shall, within ten days after the commencement of active operation of the mine, give written notice to the Minister that the mine is in active operation, and such notice shall state the name and address of every operator of the mine.

Notice of
change

(2) Every operator of a mine that is in active operation shall forthwith give written notice to the Minister of every change in the operator's name or address and such notice shall contain an address for service of the operator where notices or demands under this Act may be given or served.

Service
of notice

(3) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or served on the operator if mailed by registered mail to the address for service given by the operator, and in case no

address for service is given as herein required, the notice or demand shall be sufficiently given or served if mailed by registered mail to any address that the Minister considers most likely to bring the notice or demand to the attention of the operator.

(4) The operators of a mine shall forthwith give written notice to the Minister of every discontinuance of active operation of the mine and of every recommencement thereof after discontinuance.

Notice of
discon-
tinuance

(5) For the purposes of this section and section 6, a mine is in active operation when any operator thereof is regularly entitled to receive proceeds from the output of the mine.

Meaning of
"active
operation"

6. Subsection 6 (1) of the said Act is amended by striking out "mine assessor" in the fifth line and inserting in lieu thereof "Minister".

7.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) On or before the last day of the month that ends six months following the close of the taxation year, every operator of a mine in Ontario shall, without notice or demand, deliver to the Minister a return containing an estimate of the tax for which the operator is liable and the return shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under this Act, and such certificate shall be signed by a person who has personal knowledge of the affairs of the operator and the mine, but the Minister may require the person who certified the return to verify under oath the return or any part thereof, and any person so required shall forthwith make and file with the Minister an affidavit verifying the truth of the matters and facts contained in the return.

Returns

(2) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) Section 86 of the *Corporations Tax Act*, other than clause (1) (d) and subsection (4) thereof, applies for the purposes of this Act and in the application thereof,

Investigations
R.S.O. 1980,
c. 97

- (a) references to the corporation liable to pay tax under that Act shall be read as references to the operator under this Act; and

- (b) the reference in clause 86 (2) (a) to “a return as required by section 67” shall be read as “a return as required under this Act”.

8. Section 8 of the said Act is repealed and the following substituted therefor:

Notice of
assessment

8.—(1) The Minister shall with all due dispatch examine each return delivered under section 7 together with any other information furnished under this Act and shall assess the tax for the taxation year and the interest and penalties, if any, payable.

Interest on
unpaid tax

(2) Where the amount paid on account of the tax payable by the operator for a taxation year is less than the amount of tax payable for the taxation year, the operator liable to pay the tax shall pay interest on the difference between,

(a) the amount of tax payable for the taxation year; and

(b) the amount paid on account of the tax payable for the taxation year,

from the day on which the estimated amount of the tax payable for the taxation year is required to be paid under subsection 2 (1) to the day of payment of the tax, at the prescribed rate.

Interpretation

(3) For the purposes of subsections (2) and (9), the “amount paid on account of the tax payable” is the amount paid by the operator on account of the tax payable for the taxation year minus any amounts refunded to the operator or any amounts applied to other liability of the operator.

Idem

(4) For the purposes of subsections (2), (3) and (9), the “amount of tax payable” for a taxation year includes any penalty payable by the operator for the taxation year.

Assessments
and refunds
R.S.O. 1980,
c. 97

(5) Subsections 73 (5), (6), (9) and (10), section 74 and subsections 75 (1) and (2) of the *Corporations Tax Act* apply for the purposes of this Act and in the application thereof,

(a) references to the “corporation” shall be read as references to the “operator”;

(b) the reference to subsections 73 (5) and (9) of that Act in subsection 74 (2) shall be deemed to be a reference to those subsections as made applicable for the purposes of this Act;

- (c) the reference to “section 67” of that Act in subsection 75 (1) shall be read as “section 7” of this Act; and
- (d) the reference in subsection 75 (1) to special small corporations and to the payment of the balance of tax as required under sub-subclause 70 (2) (b) (i) (B) of that Act shall not be applicable.

(6) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at the prescribed rate shall be paid or applied thereon for the period commencing with the later of,

Interest on overpayments

- (a) the day on which the overpayment arose; and
- (b) the day on or before which the balance of the tax payable for the taxation year is required to be paid under this Act,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

(7) Where by a decision of the Minister after the filing of an objection under section 10 or of a court it is finally determined that the tax payable under this Act by an operator for a taxation year is less than the amount assessed to which objection was made or from which the appeal was taken and the effect of the decision is that an overpayment has been made for the taxation year, the interest payable under subsection (6) on that overpayment shall be computed at the prescribed rate.

Idem

(8) Where an amount has been paid with respect to the provisions of section 92 of the *Corporations Tax Act*, as made applicable for the purposes of this Act, and the tax payable under this Act for the taxation year as finally determined is less than the payment, the interest payable on that overpayment shall be computed at such rate as is prescribed for the purposes of subsection (7) as though the day on which the overpayment arose is the day upon which the payment was made.

Idem

R.S.O. 1980, c. 97

(9) Except as provided in subsection (8), “overpayment” means the aggregate of all amounts paid on account of tax payable for a taxation year less all amounts payable under this Act, or an amount so paid where no amount is payable under this Act.

Interpretation

Application
of payments
received
R.S.O. 1980,
c. 97

(10) Subsection 70 (6) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the references to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.

9. Section 9 of the said Act is repealed and the following substituted therefor:

Reassessment

9.—(1) The Minister may,

- (a) at any time, if the operator filing a return,
 - (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
 - (ii) has failed to file the financial information with the return required to be filed under section 7, or
 - (iii) has been negligent in supplying any information under this Act, or
 - (iv) has filed with the Minister a waiver in the prescribed form within six years from the day of mailing of the notice of an original assessment; and
- (b) within six years of the day of mailing of the original notice of assessment in any other case,

reassess or make additional assessments, or assess a tax, interest or penalties, as the circumstances require.

Revocation
of waiver

(2) Where the Minister is authorized to issue an assessment under subsection (1) by reason only that the operator has filed a waiver under subclause (1) (a) (iv), the Minister may not issue an assessment later than one year after the date on which the operator has filed a notice of revocation of the waiver in the prescribed form.

Pension plan
withdrawals

(3) Notwithstanding subsection (1), where any amount is withdrawn by an operator from an employees' superannuation or pension fund or plan, the Minister may reassess the amount of tax payable by the operator under this Act for a maximum of ten taxation years immediately preceding the taxation year in which the withdrawal is made, and may disallow the deduction of all or any part of the amounts previously deducted by the operator in the calculation of the profit of the mine for

such taxation years with respect to contributions made by the operator and any predecessor thereof to such fund or plan, but in no case shall the total of the amounts disallowed for such taxation years exceed the lesser of the amount withdrawn from the fund or plan and the amount of such contributions to the fund or plan as determined in the prescribed manner.

10. Section 10 of the said Act is repealed and the following substituted therefor:

10. Sections 77, 78, 79, 80, 81, 82, 83 and 84 of the *Corporations Tax Act* apply for the purposes of this Act, and in the application thereof the following rules apply:

Objections
and appeals
R.S.O. 1980,
c. 97

1. References therein to “a corporation” and “the corporation” shall be read as “an operator” and “the operator”, respectively.
2. The reference to section 73 of that Act in subsection 77 (1) and clause 77 (6) (a) shall be read as a reference to sections 8 and 9 of this Act.
3. The reference in subsection 77 (5) to “clause 73 (7) (b) or (c)” shall be deemed to be a reference to clause 9 (1) (b) of this Act.
4. Clause 77 (6) (b) is not applicable for the purposes of this Act.
5. Clause 77 (6) (d) shall be read without reference to the words “if section 85 does not apply”.
6. All references therein to sections 77, 78 and 80 of that Act, and subsections thereof as applicable, shall be deemed to be references to those sections and subsections as made applicable by this section.
7. The reference to subsection 73 (10) in section 79 shall be deemed to be a reference to that subsection as made applicable by section 8 of this Act.

11. Section 11 of the said Act is repealed and the following substituted therefor:

11.—(1) Every operator shall keep at or near the mine, or at such place determined under subsection (3), proper books of account showing,

Books of
account

- (a) the quantity, weight, value, composition and other particulars of the mineral substances raised, taken or gained from the mine;
- (b) the returns from the processing plant;
- (c) the proceeds from the output of the mine;
- (d) each of the several expenses, payments and allowances deducted pursuant to section 3; and
- (e) any other facts and circumstances necessary or proper for ascertaining the amount of tax imposed by this Act.

Removal of mineral substances from mining premises

(2) No mineral substance raised, taken or gained from any mine shall be removed from the mining premises or processed at any processing plant until the weight of the mineral substance has been ascertained and entered in the books of account required to be kept under subsection (1).

Idem

(3) The Minister may determine the number and character of books required to be kept under subsection (1) and may require that the books of account mentioned in subsection (1) be kept at such place in Ontario as the Minister determines.

Costs

(4) Where the Minister permits books of account to be kept outside of Ontario, all costs incurred by the Minister to examine such books at the place where they are kept shall be reimbursed by the operator and the Minister may forthwith take all remedies available under this Act or at law to recover such costs.

Retention of books of account
R.S.O. 1980, c. 97

(5) Subsection 87 (3) of the *Corporations Tax Act* is applicable for the purposes of this Act and, in the application thereof, the reference to "every corporation" shall be read as "every operator".

12. Section 12 of the said Act is repealed.

13. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Entry to mine

(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter upon any mine in Ontario and the operator of the mine shall,

- (a) permit such person to descend all pits and shafts and use all tackle, machinery, appliances and things

belonging to or under the control of the operator that the person considers necessary or expedient for the purposes of carrying out his or her duties under this subsection;

- (b) give to such person free ingress and egress to, from and over all buildings, erections, structures and vessels used in connection with the mine and any processing plant at which mineral substance taken from the mine is processed or in any way modified; and
- (c) permit the person to take such samples or specimens of mineral substance as the person considers necessary for the purpose of determining their value by assay or otherwise.

14. Sections 15 and 16 of the said Act are repealed and the following substituted therefor:

15. If any doubt or dispute arises as to the liability of an operator to pay the tax or any portion of the tax demanded under this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as the Minister considers proper.

Compromising disputes as to liability for tax

15. Section 18 of the said Act is repealed and the following substituted therefor:

18.—(1) Every operator who fails to pay any tax imposed under this Act or any estimate of tax required to be paid under this Act at the time provided is liable to a penalty of 10 per cent of the amount unpaid plus an additional penalty of 10 per cent of the amount unpaid for each twelve month period that the tax or estimate of tax remains unpaid.

Penalty for failure to pay tax

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay a penalty of,

Penalty

- (a) an amount equal to 10 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the operator for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$1,000, if at the time the return was required to be delivered tax payable by the operator equal to \$10,000 or more was unpaid.

Failure to
complete
return

(3) Every operator who fails to complete the information required on the return to be delivered under section 7 is liable to a penalty of 1 per cent of the tax payable by the operator under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of an operator, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the operator is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by the operator under this Act if the operator's profit for the taxation year was computed by adding to the operator's profit for the taxation year as reported by the operator in the return for the year that portion of the understatement of profit for the taxation year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by the operator under this Act had the tax payable for the taxation year been assessed on the basis of the information provided in the operator's return for the taxation year.

16. Section 19 of the said Act is repealed and the following substituted therefor:

Offences

19.—(1) Every operator that fails to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day of default.

Idem

R.S.O. 1980,
c. 97

(2) Every person who fails to comply with or contravenes subsection 86 (8) of the *Corporations Tax Act*, as made applicable by subsection 7 (2) of this Act, section 11 or subsection 13 (1), is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$25 for each day during which the default or contravention continues.

(3) Sections 89 and 90 of the *Corporations Tax Act* apply for the purposes of this Act. Officers of corporations

17. Section 20 of the said Act is repealed and the following substituted therefor:

20.—Every person who has,

False
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of an operator;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of an operator;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years or to both fine and imprisonment.

18. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) Subsections 92 (1), (2), (4) and (5) and sections 93, 94, 94a, 94b, 94c and 95 of the *Corporations Tax Act* apply with necessary modifications for the purposes of this Act and, without limiting the generality of the foregoing, references therein to “a corporation” and “the corporation” with respect to a person liable to pay an amount under that Act

Collection
R.S.O. 1980,
c. 97

shall be read as “an operator” and “the operator” for the purposes of this Act.

Unregistered
liens
discharged

(2) Any property of any kind that is, by virtue of any predecessor of this section, subject to a first lien and charge that is not registered in the proper land registry office, is absolutely discharged from such unregistered first lien and charge unless, in the case of real property, in any proceeding a claim has been made or other steps taken by the Minister with respect to such unregistered first lien and charge or, prior to the 1st day of January, 1988, a notice of such first lien and charge has been registered by the Minister in the proper land registry office.

19. Section 22 of the said Act is amended by striking out “county or district court” in the ninth line and inserting in lieu thereof “District Court”.

20. Sections 23 and 24 of the said Act are repealed.

21. Subsection 25 (1) of the said Act is repealed and the following substituted therefor:

Action to
recover
tax, etc.

(1) If any tax, interest or penalty imposed by this Act or the reimbursement required under subsection 11 (4) is not paid when due, the same may be recovered with costs from the operator by an action to be tried without a jury at the suit of the Minister in any court of competent jurisdiction.

22. Section 26 of the said Act is repealed and the following substituted therefor:

Regulations

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rates of interest for the purposes of this Act or a formula for computing those rates and the method of calculating that interest;
- (b) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined by the regulations;
- (d) defining any word or expression used in this Act or the regulations made under this Act that has not already been expressly defined in this Act;

- (e) prescribing forms and providing for their use;
- (f) prescribing the manner of determining the profit for the taxation year of an operator who is a member of a partnership or a beneficiary of a trust where the partnership or trust is operating a mine; and
- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of clause 3 (6) (c) and the time at which a mine project is completed.

(2) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Regulation
may be
retroactive

23.—(1) Where,

Transitional

- (a) a person has delivered to the Minister, before the 15th day of May, 1986, a written notice of appeal within the time required under subsection 10 (1) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986; and
- (b) the appeal referred to in clause (a) has not been, before the 15th day of May, 1986,
 - (i) referred to the Mining and Lands Commissioner or the Ontario Municipal Board under subsection 10 (2) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986, or
 - (ii) set down for hearing and determination by the Divisional Court under subsection 10 (4) of the *Mining Tax Act* as that subsection read immediately before the 15th day of May, 1986,

the written notice of appeal shall be deemed to be a notice of objection served on the Minister for the purposes of the application of sections 8 and 10 of the *Mining Tax Act*, as re-enacted by sections 8 and 10 respectively of this Act.

(2) All references in the provisions of the *Mining Tax Act* as they read immediately before the day this Act receives Royal Assent and which remain applicable in respect of taxation years ending on or before the 31st day of March, 1986, and in

Idem

the regulations made under the said Act, to the “mine assessor” shall be deemed to be references to the “Minister”.

Idem

(3) In the application of section 9 of the *Mining Tax Act*, as re-enacted by section 9 of this Act,

- (a) where an assessment, reassessment or additional assessment is made on or before the day this Act receives Royal Assent, references in section 9, as re-enacted, to the “Minister” shall be deemed to be references to the “mine assessor”;
- (b) where an assessment, reassessment or additional assessment is made in respect of a taxation year ending before the 1st day of April, 1986, references in subclause 9 (1) (a) (iv) and clause 9 (1) (b) to “six years” shall be read as references to “four years”; and
- (c) subsection 9 (3) applies only in respect of amounts withdrawn from an employees’ superannuation or pension fund or plan after the 31st day of March, 1986.

Commencement
and
application

24.—(1) This Act, except as provided in subsections (2) to (7), comes into force on the day it receives Royal Assent.

Idem

(2) Section 19 shall be deemed to have come into force on the 1st day of January, 1985.

Idem

(3) Subsections 1 (2), (4), (7) to (9) and section 2 of this Act, subsections 3 (1) to (11) of the said Act, as re-enacted by subsection 3 (1) of this Act, subsection 3 (2), section 4 and subsection 7 (1) of this Act shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Subsection 3 (12) to (14) of the said Act, as re-enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of acquisitions, transfers, dispositions and sales made after the 31st day of March, 1986.

Idem

(5) Section 9 shall be deemed to have come into force on the 1st day of April, 1986, and applies in respect of assessments, reassessments and additional assessments made after the 31st day of March, 1986, in respect of any taxation year.

Idem

(6) Subsections 1 (3) and (5) shall be deemed to have come into force on the 15th day of May, 1986.

(7) Section 10 shall be deemed to have come into force on ^{Idem} the 15th day of May, 1986, and applies in respect of assessments issued after the 14th day of April, 1986.

25. The short title of this Act is the *Mining Tax Amendment* ^{Short title} *Act, 1987.*

Bill 190

An Act to amend the Mental Health Act

The Hon. M. Elston
Minister of Health



1st Reading January 28th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Clause 1 (j), the definition of “nearest relative”, is repealed. It provides:

(j) “nearest relative” means,

- (i) *a person to whom the person is married, with whom the person is living and who has attained the age of sixteen years and is mentally competent, or*
- (ii) *if none or if none is available, a person of the opposite sex with whom the person is living outside marriage in a conjugal relationship and who has attained the age of sixteen years and is mentally competent, if the two persons,*
 - (A) *have cohabited for at least one year,*
 - (B) *are together the parents of a child, or*
 - (C) *have together entered into a cohabitation agreement under section 53 of the Family Law Act, 1986,*
- (iii) *if none or if none is available, any one of the children who has attained the age of sixteen years and is mentally competent, or*
- (iv) *if none or if none is available, either of the parents who is mentally competent or the guardian, or*
- (v) *if none or if none is available, any one of the brothers or sisters who has attained the age of sixteen years and is mentally competent, or*
- (vi) *if none or if none is available, any other of the next of kin who has attained the age of sixteen years and is mentally competent.*

In the present Act, the nearest relative is given the right to consent on behalf of a patient who is under sixteen or not mentally competent to disclosure of a clinical record and, if the patient is an involuntary patient, to treatment, and is given the right on behalf of such a patient to have access to a clinical record. The Bill establishes a different regime of substitute consent in section 2.

SECTION 2. The Bill gives persons the right while they are mentally competent to appoint any representative to consent on their behalf in the event that they become not mentally competent for the purposes of the *Mental Health Act*. It provides a rank order for persons to consent on behalf of a patient or former patient who is under sixteen or not mentally competent, as follows:

1. The person appointed as the patient’s committee.
2. The patient’s representative.
3. The patient’s married or common law spouse.
4. A child of the patient.
5. A parent of the patient or person with custody of the patient.
6. A brother or sister of the patient.
7. Another next of kin of the patient.

Persons are required to give or refuse consent on behalf of a patient on the basis of the patient's wishes, if known, and on the basis of the best interest of the patient otherwise.

SECTIONS 3 and 4. Ancillary to sections 1 and 2.

SECTIONS 5 and 6. Section 35 deals with treatment orders. The Act, as amended by the Statutes of Ontario, 1986, chapter 64 (Bill 7), provides that a patient's attending physician may apply to the review board for an order that specified treatment be given to a patient who is an involuntary patient, not mentally competent and without a nearest relative available to consent on his or her behalf. However, in all other cases, treatment cannot be provided to a patient without the patient's consent or the consent of the nearest relative. Section 5 of the Bill would change this by allowing the attending physician to apply to the review board for an order for specified treatment, other than electroconvulsive therapy, if two physicians certify that they believe the mental condition of the patient is likely to be substantially improved by the treatment and is not likely to improve without the treatment. Without such an order or in the case of a voluntary patient, the doctor must have the consent of the patient, if competent, or the consent of the person designated under section 2, above, on behalf of the patient in order to proceed with treatment. The best interests of the patient for the purpose of a substitute consent are to be determined in terms of whether the condition of the patient is likely to be substantially improved by the treatment and whether the condition of the patient will improve without the treatment.

Bill 190

1987

An Act to amend the Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (j) of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

2. The said Act is amended by adding thereto the following sections:

1a.—(1) In this section and section 1b, “patient” includes a former patient, out-patient and former out-patient. Interpretation

(2) A person may give or refuse consent on behalf of a patient who has not attained the age of sixteen years or is not mentally competent if the person has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs: Substitute consent

1. The committee of the patient appointed under the *Mental Incompetency Act*.

R.S.O. 1980,
c. 264

2. The patient’s representative appointed under section 1b.

3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the psychiatric facility, if in the case of unmarried persons they,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

1986, c. 4

(iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.

4. A child of the patient.
5. A parent of the patient or a person who has lawful custody of the patient.
6. A brother or sister of the patient.
7. Any other next of kin of the patient.

Refusal

(3) If a person in a category in subsection (2) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.

Preference

(4) If two or more persons who are described in different paragraphs of subsection (2) claim the authority to give or refuse consent on behalf of a patient, the claim of the person who is described in the paragraph occurring first in that subsection prevails.

Conflict

(5) If two or more persons who are described in the same paragraph of subsection (2) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (4), the refusal prevails.

Consent
by
relative

(6) A person described in paragraphs 3, 4, 5, 6 or 7 of subsection (2) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,

- (a) the person's relationship to the patient;
- (b) that the person has been in personal contact with the patient over the preceding twelve month period;
- (c) that the person is willing to assume the responsibility for consent or refusing consent; and
- (d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.

Basis for
substitute
consent

(7) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the

patient if the person knows that the patient expressed any such wishes when apparently mentally competent and at least sixteen years of age and in accordance with the best interests of the patient if the person does not know of any such wishes.

(8) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (6), unless it is not reasonable to do so.

Reliance
on
statement

(9) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person.

Reasonable
inquiries

1b.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse consent on behalf of the person for the purpose of paragraph 2 of subsection 1a (2).

Patient's
representative

(2) An appointment of a representative shall be made in writing in the presence of a witness.

Appointment
in writing

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act.

Conditions

(4) A physician who admits or registers a patient to a psychiatric facility shall promptly inform the patient in writing of the patient's right under subsection (1).

Notice by
physician

(5) The officer in charge shall promptly inform all persons who are patients of the facility at the time of the coming into force of this Act, other than former patients and former out-patients, in writing of their rights under subsection (1).

Transitional

(6) The notice shall be in the form prescribed by the regulations and shall inform the patient of the powers and responsibilities of a representative under this Act.

Contents
of notice

(7) If a patient gives or transmits to the officer in charge a statement in writing appointing a representative, the officer in charge shall transmit the statement to the representative forthwith.

Appointment
of repre-
sentative

(8) A patient who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and

Revocation

subsection (7) applies with necessary modifications in respect of the revocation and new appointment.

3.—(1) Clause 29 (3) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Clause 29 (3) (e) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third and fourth lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(3) Subsection 29 (3a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(4) Clause 29 (9) (b) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the third line and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(5) Clause 29 (9) (c) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is further amended by striking out “nearest relative of the patient” in the sixth and seventh lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

4.—(1) Subsection 29a (16) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the second and third lines and inserting in lieu thereof “person authorized under section 1a to consent on behalf of the patient”.

(2) Subsection 29a (17) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is amended by striking out “patient’s nearest relative” in the third line and inserting in lieu thereof “person”.

5. Section 35 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

- (a) “electroconvulsive therapy” means the procedure for the treatment of certain mental disorders that induces, by electrical stimulation of the brain, a series of generalized convulsions;
- (b) “having the ability to understand the subject matter in respect of which consent is requested” in the definition of “mentally competent” means having the ability to understand the nature of the illness for which treatment is proposed and the treatment proposed; and
- (c) “psychosurgery” means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable.

(2) Psychiatric and other related medical treatment shall not be given to a patient, Consent
to
treatment

- (a) where the patient has attained the age of sixteen years and is mentally competent, without the consent of the patient;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) without the consent of a person authorized by section 1a to consent on behalf of the patient,
 - (ii) unless the review board has made an order authorizing the giving of the specified psychiatric and other related medical treatment, or
 - (iii) unless a physician certifies in writing that there is imminent and serious danger to the life, a limb or a vital organ of the patient requiring immediate treatment and the physician believes that delay in obtaining consent would endanger the life, a limb or a vital organ of the patient.

No psycho-
surgery

(3) The consent of an involuntary patient or a person who is authorized by section 1a to consent on behalf of an involuntary patient to psychiatric and other related medical treatment does not include and shall not be deemed to include psycho-surgery.

Best
interests

(4) A person authorized to give or refuse consent on behalf of a patient shall consider the following factors to determine whether a specified psychiatric treatment and other related medical treatment are in the best interests of a patient,

- (a) whether the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) whether the mental condition of the patient will improve or is likely to improve without the specified psychiatric treatment.

6. The said Act is further amended by renumbering section 35a, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, as section 35d and by adding thereto the following sections:

Application
to review
board

35a.—(1) The attending physician of an involuntary patient may apply to the review board for an order authorizing the giving of specified psychiatric and other related medical treatment to the patient,

- (a) where the patient has attained the age of sixteen years and is mentally competent to consent to such treatment, if the patient has refused to consent;
- (b) where the patient has not attained the age of sixteen years or is not mentally competent,
 - (i) if a person authorized under section 1a to consent to such treatment on the patient's behalf has refused to consent,
 - (ii) if there is no person available who is authorized under section 1a to consent to such treatment on the patient's behalf, or
 - (iii) under the circumstances described in subsection 1a (4).

Material on
application

(2) The review board shall not consider an application unless it is accompanied by statements signed by the attending physician and a psychiatrist who is not a member of the medi-

cal staff of the psychiatric facility, each stating that they have examined the patient and that they are of the opinion that,

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(3) Each of the opinions in the statements described in subsection (2) shall be supported with reasons. Reasons for opinions

(4) The review board by order may authorize the giving of the specified psychiatric and other related medical treatment if it is satisfied that, Basis for decision

- (a) the mental condition of the patient will be or is likely to be substantially improved by the specified psychiatric treatment; and
- (b) the mental condition of the patient will not improve or is not likely to improve without the specified psychiatric treatment.

(5) An order may include terms and conditions and shall specify the period of time during which it is effective. Terms and conditions

(6) No order of the board is or shall be deemed to be authority to perform psychosurgery or to administer electroconvulsive therapy. No psychosurgery, E.C.T.

(7) The attending physician, the patient, where the patient has attained the age of sixteen years and is mentally competent, and such other persons as the review board may specify are parties to the proceedings before the review board. Parties

(8) Where the patient has not attained the age of sixteen years or is not mentally competent, Idem

- (a) the person authorized under section 1a to consent on the patient's behalf;
- (b) under the circumstances described in subsection 1a(4), all of the persons described therein; or
- (c) if there is no person available who is authorized under section 1a to consent on the patient's behalf, the Official Guardian,

are parties to the proceedings in the place of the patient.

Treatment
pending
appeal

(9) Where a party appeals an order authorizing the providing of specific psychiatric and other related medical treatment or a specific course of psychiatric and other related medical treatment to a patient, the treatment or course of treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to.

Procedure

(10) Sections 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Application
for review of
patient
determined
incompetent

35b.—(1) An involuntary patient determined to be not mentally competent for the purpose of sections 35 or 35a may apply in the prescribed form to the review board to inquire into whether the patient is not mentally competent.

Idem

(2) If an application is made under subsection (1), the proposed psychiatric treatment shall not be given until the matter is determined by the review board or, where the patient appeals its decision, until the matter is finally determined, unless otherwise ordered by a judge of the court appealed to.

Idem

(3) Sections 33, 33a, 33b, 33c, 33d, 33e and 33f apply with necessary modifications to an application under subsection (1).

Treatment
for persons
detained
under
R.S.C. 1970,
c. C-34

35c. Sections 35, 35a and 35b apply with necessary modifications to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada), as if the person were an involuntary patient.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Mental Health Amendment Act, 1987*.

20N
56

Bill 191

An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

Mr. Runciman



1st Reading January 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Act allows the Attorney General to offer protection, including relocation and a new identity, to Crown witnesses whose lives or safety are jeopardized by their willingness to testify at certain criminal proceedings.

Where the offer of protection is accepted, its terms must be set out in a memorandum of understanding between the witness and the Attorney General. If there is a dispute as to the terms of the memorandum, the matter may be referred to a member of the Criminal Injuries Compensation Board for a hearing and report, including a recommendation for settlement.

Bill 191

1987

**An Act to provide for the
Safety and Welfare of Crown Witnesses
in Certain Criminal Proceedings**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board continued under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

“Minister” means the Attorney General;

“witness” means a person whom the Crown intends to call or has called as a witness in a criminal proceeding.

2.—(1) Subject to section 3, the Minister may offer to provide protection to a witness whose life or health is likely to be in danger as a result of giving or intending to give testimony in a criminal proceeding.

Minister may
offer
protection
to Crown
witness

(2) The protection provided by the Minister under this Act may include, but is not limited to,

Nature of
protection

- (a) protection for the witness, his or her spouse and children;
- (b) protection before or after the proceedings in which the witness is to testify, or both;
- (c) relocation to any place in Canada or, if necessary, in the United States of America;
- (d) an undertaking to provide a new identity, including a past history and work record;
- (e) temporary or permanent financial assistance; and

(f) assistance in obtaining employment.

Factors
relating to
offer of
protection

3. Before offering protection to a witness under this Act, the Minister shall consider,

- (a) the seriousness of the offence to which the proceedings in which the witness is to testify relate;
- (b) alternative sources of testimony; and
- (c) the risk of danger to the public as a result of the relocation of the witness.

Memorandum
of
understanding

4.—(1) Where a witness accepts the Minister's offer of protection, the terms of the offer shall be set out in a memorandum to be signed by the witness before the witness testifies in the proceeding.

Idem

(2) A witness is not entitled to protection under this Act until the Minister has received the signed memorandum.

Obligations
of witness

(3) The memorandum shall be in the form approved by the Minister and shall include the witness's agreement, in exchange for protection,

- (a) to testify in the proceeding;
- (b) to take all necessary steps to avoid detection; and
- (c) to abide by all laws.

Dispute as to
terms of
memorandum

5.—(1) Where a dispute arises with respect to the terms of a memorandum, the Minister shall, at the request of the witness, refer the matter to a member of the Board for a hearing to be held *in camera*.

Parties

(2) The witness, the Minister or his or her delegate and any other person added by the Board member shall be parties to the hearing.

Notice

(3) The Board member shall fix a time and place for the hearing and, unless all parties waive notice of the hearing, shall notify the parties at least ten days before the day fixed.

Report

(4) The Board member shall report his or her conclusions, including a recommendation for the settlement of the dispute, to the Minister.

Idem

(5) A copy of the report shall be served on the other parties.

(6) The Minister shall consider the Board member’s report and may implement its recommendations.

Consideration of report

6. The Minister may disclose the identity or location of a protected witness if, in his or her opinion, the benefit of the disclosure to the person requesting the information outweighs the risk to the witness.

Disclosure of witness identity or location

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

8. The short title of this Act is the *Crown Witness Protection Act, 1987*.

Short title

20N
B
56

Feb. 1987

Bill 192

Government Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1987

Bill 192

An Act to amend the Regional Municipality of Hamilton-Wentworth Act and the Municipal Elections Act

The Hon. B. Grandmaître

Minister of Municipal Affairs



1st Reading February 2nd, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill has three purposes as follows:

1. The Bill provides for the election of the chairman of the Regional Council by general vote of the electors of the area municipalities. (sections 4, 5, 6 and 11)
2. The Bill changes references to the Town of Stoney Creek and the Township of Flamborough to read as references to the City of Stoney Creek and the Town of Flamborough. The status and name of the two municipalities were changed in 1984 and 1985, respectively, by orders in council made under the Act. (sections 1, 2, 3, 7, 8, 9 and 10)
3. The reference to the number of aldermen elected by wards in the Town of Flamborough is changed from nine to seven. This reflects an order of the Ontario Municipal Board in 1982. (section 3)

Bill 192

1987

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act
and the Municipal Elections Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “area municipality” means the municipality or corporation of the City of Hamilton, the Town of Dundas, the City of Stoney Creek, the Town of Ancaster, the Town of Flamborough and the Township of Glanbrook, all as constituted or continued by section 2.

2. Section 2 of the said Act is amended by adding thereto the following subsections:

(5) Effective the 1st day of January, 1984, The Corporation of the Town of Stoney Creek is erected into a city municipality bearing the name The Corporation of the City of Stoney Creek.

City of
Stoney Creek

(6) Effective the 1st day of January, 1985, The Corporation of the Township of Flamborough is erected into a town municipality bearing the name The Corporation of the Town of Flamborough.

Town of
Flamborough

3. Paragraphs 3 and 5 of subsection 3 (1) of the said Act are repealed and the following substituted therefor:

3. The City of Stoney Creek—seven members elected by wards and one member elected by general vote of the electors of such municipality.

.

5. The Town of Flamborough—seven members elected by wards and one member elected by general vote of the electors of such municipality.

4. Sections 6 and 7 of the said Act are repealed and the following substituted therefor:

Composition
of Regional
Council

6. The Regional Council shall consist of twenty-eight members composed of,

- (a) a chairman elected by general vote of the electors of all the area municipalities;
- (b) the mayor of each area municipality;
- (c) sixteen members of council from the City of Hamilton being the remainder of the council of the City;
- (d) one member of council from the Town of Dundas elected by general vote of the electors of the said area municipality as a member of the Regional Council and the council of such area municipality;
- (e) one member of council from the City of Stoney Creek elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (f) one member of council from the Town of Ancaster elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (g) one member of council from the Town of Flamborough elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality; and
- (h) the member of the council of the Township of Glanbrook elected by general vote.

Qualifi-
cations of
chairman

7.—(1) A person is qualified to hold office as chairman of the Regional Council,

- (a) if the person is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality; and R.S.O. 1980, c. 308
- (b) if the person is not disqualified by this or any other Act from holding the office of chairman.

(2) For the purpose of electing the chairman of the Regional Council, Election of chairman

- (a) the clerk of the area municipality with the greatest number of electors shall be the returning officer for the election;
- (b) the nominations for chairman shall be filed with the clerk of the area municipality with the greatest number of electors who shall send the names of the candidates to the clerk of each of the other area municipalities by registered mail within forty-eight hours after the closing of nominations; and
- (c) the clerk of each area municipality shall be the returning officer for the vote to be recorded in such area municipality and shall forthwith report the vote recorded to the clerk of the area municipality with the greatest number of electors who shall prepare the final summary and announce the vote.

5. Section 8 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 4, is further amended by adding thereto the following subsection:

(3a) Where a person is elected as chairman of the Regional Council, the clerk of the area municipality with the greatest number of electors, forthwith after the election, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of the person who has been so elected and the person shall not take the office of chairman until the clerk of the Regional Corporation has received such a certificate in respect of the person. Idem

6. Subsections 11 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) If a vacancy occurs in the office of chairman of the Regional Council, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though that office were the office of mayor. Vacancy in office of chairman R.S.O. 1980, c. 302

Where
chairman
member of
area council

(2) Where in filling a vacancy a member of the council of an area municipality becomes chairman, the person shall be deemed to have resigned as a member of such council, and the person's seat on such council thereby becomes vacant.

7. Clause 61 (b) of the said Act is repealed and the following substituted therefor:

(b) "area municipality" means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the City of Stoney Creek, the Town of Flamborough and the Township of Glanbrook.

8. Subsections 62 (6), (7), (8) and (9) of the said Act are repealed.

9.—(1) Subsection 65 (1) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(2) Clause 65 (2) (a) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(3) Clause 65 (2) (b) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

10. Subsection 66 (1) of the said Act is repealed and the following substituted therefor:

Where
Ontario
Hydro
to distribute
and supply
power

(1) Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Ancaster and Flamborough and the Township of Glanbrook that Ontario Hydro served immediately before the 19th day of June, 1980.

11.—(1) Clause 2 (a) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

(v) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(2) Clause 44 (7) (a) of the said Act is amended by adding thereto the following subclause:

(vi) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(3) Subsection 49 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following paragraph:

- 2a. In The Regional Municipality of Hamilton-Wentworth, the elector is entitled to vote once only
 ~ for one candidate for chairman of the Regional Council.

(4) Section 49 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10 and 1986, chapter 29, section 12, is further amended by adding thereto the following subsection:

- (1a) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Hamilton-Wentworth shall not vote in more than one of such polling subdivisions in an election for the office of chairman of the Regional Council.
- One vote for chairman of Regional Council

12.—(1) This Act, except sections 4, 5, 6 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 4, 5, 6 and 11 come into force on the 1st day of December, 1988.

Idem

(3) Notwithstanding subsection (2), the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted as if sections 4, 5, 6 and 11 were in force.

First election of chairman
R.S.O. 1980,
c. 308

13. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Statute Law Amendment Act, 1987*.

Short title

Bill 192

2ND SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 192

*(Chapter 12
Statutes of Ontario, 1987)*

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act
and the Municipal Elections Act**

The Hon. B. Grandmaître
Minister of Municipal Affairs



<i>1st Reading</i>	February 2nd, 1987
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 192

1987

**An Act to amend the
Regional Municipality of Hamilton-Wentworth Act
and the Municipal Elections Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “area municipality” means the municipality or corporation of the City of Hamilton, the Town of Dundas, the City of Stoney Creek, the Town of Ancaster, the Town of Flamborough and the Township of Glanbrook, all as constituted or continued by section 2.

2. Section 2 of the said Act is amended by adding thereto the following subsections:

(5) Effective the 1st day of January, 1984, The Corporation of the Town of Stoney Creek is erected into a city municipality bearing the name The Corporation of the City of Stoney Creek.

City of
Stoney Creek

(6) Effective the 1st day of January, 1985, The Corporation of the Township of Flamborough is erected into a town municipality bearing the name The Corporation of the Town of Flamborough.

Town of
Flamborough

3. Paragraphs 3 and 5 of subsection 3 (1) of the said Act are repealed and the following substituted therefor:

3. The City of Stoney Creek—seven members elected by wards and one member elected by general vote of the electors of such municipality.

.

5. The Town of Flamborough—seven members elected by wards and one member elected by general vote of the electors of such municipality.

4. Sections 6 and 7 of the said Act are repealed and the following substituted therefor:

Composition
of Regional
Council

- 6.** The Regional Council shall consist of twenty-eight members composed of,

- (a) a chairman elected by general vote of the electors of all the area municipalities;
- (b) the mayor of each area municipality;
- (c) sixteen members of council from the City of Hamilton being the remainder of the council of the City;
- (d) one member of council from the Town of Dundas elected by general vote of the electors of the said area municipality as a member of the Regional Council and the council of such area municipality;
- (e) one member of council from the City of Stoney Creek elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (f) one member of council from the Town of Ancaster elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality;
- (g) one member of council from the Town of Flamborough elected by general vote of the electors of such area municipality as a member of the Regional Council and the council of such area municipality; and
- (h) the member of the council of the Township of Glanbrook elected by general vote.

Qualifi-
cations of
chairman

- 7.—(1)** A person is qualified to hold office as chairman of the Regional Council,

- (a) if the person is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality; and R.S.O. 1980,
c. 308
- (b) if the person is not disqualified by this or any other Act from holding the office of chairman.

(2) For the purpose of electing the chairman of the Regional Council, Election of
chairman

- (a) the clerk of the area municipality with the greatest number of electors shall be the returning officer for the election;
- (b) the nominations for chairman shall be filed with the clerk of the area municipality with the greatest number of electors who shall send the names of the candidates to the clerk of each of the other area municipalities by registered mail within forty-eight hours after the closing of nominations; and
- (c) the clerk of each area municipality shall be the returning officer for the vote to be recorded in such area municipality and shall forthwith report the vote recorded to the clerk of the area municipality with the greatest number of electors who shall prepare the final summary and announce the vote.

5. Section 8 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 4, is further amended by adding thereto the following subsection:

(3a) Where a person is elected as chairman of the Regional Council, the clerk of the area municipality with the greatest number of electors, forthwith after the election, shall certify under the seal of the area municipality to the clerk of the Regional Corporation the name of the person who has been so elected and the person shall not take the office of chairman until the clerk of the Regional Corporation has received such a certificate in respect of the person. Idem

6. Subsections 11 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

(1) If a vacancy occurs in the office of chairman of the Regional Council, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though that office were the office of mayor. Vacancy in
office of
chairman
R.S.O. 1980,
c. 302

Where
chairman
member of
area council

(2) Where in filling a vacancy a member of the council of an area municipality becomes chairman, the person shall be deemed to have resigned as a member of such council, and the person's seat on such council thereby becomes vacant.

7. Clause 61 (b) of the said Act is repealed and the following substituted therefor:

(b) "area municipality" means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the City of Stoney Creek, the Town of Flamborough and the Township of Glanbrook.

8. Subsections 62 (6), (7), (8) and (9) of the said Act are repealed.

9.—(1) Subsection 65 (1) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(2) Clause 65 (2) (a) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

(3) Clause 65 (2) (b) of the said Act is amended by striking out "Township" in the second line and inserting in lieu thereof "Town".

10. Subsection 66 (1) of the said Act is repealed and the following substituted therefor:

Where
Ontario
Hydro
to distribute
and supply
power

(1) Ontario Hydro shall continue to distribute and supply power in those areas of the towns of Ancaster and Flamborough and the Township of Glanbrook that Ontario Hydro served immediately before the 19th day of June, 1980.

11.—(1) Clause 2 (a) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

(v) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(2) Clause 44 (7) (a) of the said Act is amended by adding thereto the following subclause:

(vi) chairman of the council of The Regional Municipality of Hamilton-Wentworth.

(3) Subsection 49 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, is further amended by adding thereto the following paragraph:

- 2a. In The Regional Municipality of Hamilton-Wentworth, the elector is entitled to vote once only for one candidate for chairman of the Regional Council.

(4) Section 49 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10 and 1986, chapter 29, section 12, is further amended by adding thereto the following subsection:

(1a) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Hamilton-Wentworth shall not vote in more than one of such polling subdivisions in an election for the office of chairman of the Regional Council.

One vote for chairman of Regional Council

12.—(1) This Act, except sections 4, 5, 6 and 11, comes into force on the day it receives Royal Assent.

Commence-ment

(2) Sections 4, 5, 6 and 11 come into force on the 1st day of December, 1988.

Idem

(3) Notwithstanding subsection (2), the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted as if sections 4, 5, 6 and 11 were in force.

First election of chairman R.S.O. 1980, c. 308

13. The short title of this Act is the *Regional Municipality of Hamilton-Wentworth Statute Law Amendment Act, 1987*.

Short title

20N
B
356

1-200000

Bill 193

Private Member's Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1987

Bill 193

An Act to amend the Planning Act, 1983

Mr. Johnston



1st Reading February 2nd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. “Nuclear weapons material” is defined.

SECTION 2. This adds to the factors that the Minister must consider in carrying out his or her responsibilities under the Act the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

SECTION 3. Self-explanatory.

SECTION 4. This requires the approval of the Minister and in the case of land in a local municipality, a zoning by-law properly passed by the Council of that municipality before a person is entitled to establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

SECTION 5. Section 66 of the Act makes it an offence to contravene certain provisions, with maximum fines on conviction of \$20,000 for a first offence and \$10,000 for each day that a contravention continues after the first conviction. The comparable fines for a corporation are \$50,000 and \$25,000 respectively. Section 5 of the Bill makes this provision apply in respect of a person contravening section 4 of the Bill.

Bill 193

1987

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Planning Act*, 1983, being chapter 1, is amended by adding thereto the following clause:

- (ga) “nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

2. Section 2 of the said Act is amended by striking out “and” at the end of clause (h), by adding “and” at the end of clause (i) and by adding thereto the following clause:

- (j) the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

3. Section 16 of the said Act is amended by adding thereto the following subsection:

- (2) Every official plan shall be deemed to include a provision that no new facilities shall be established for and no facilities shall be converted to the production of nuclear weapons material.

Deemed provision

4. The said Act is amended by adding thereto the following section:

- 45a.** Unless otherwise approved by the Minister and in the case of land in a local municipality also authorized by a by-law in force under section 34, no person shall establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

Nuclear weapons material production restricted

5. Subsection 66 (1) of the said Act is amended by inserting after “45” in the first line “45a”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Planning Amendment Act, 1987*.

Bill 194

An Act to provide for the Conversion of Technologies and Skills used in the Nuclear Weapons Industry to Civilian Uses

Mr. Johnston



1st Reading February 2nd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to prepare for the termination of contracts for the production, repair, modification, storage or handling of materials used for nuclear weapons by encouraging the conversion of technologies and skills developed or used in those nuclear weapons contracts to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of those nuclear weapons contracts.

The Bill requires a company that enters into or has a nuclear weapons contract to establish a committee to assist in the preparation for conversion of the plant to civilian purposes and in the retraining of employees. The committees are to be composed of equal numbers of representatives of the company and of the employees and in some circumstances of non-voting representatives from the community.

The Bill provides for benefits to be paid to employees who lose their jobs as a result of the termination of a nuclear weapons contract.

A company that enters into or has a nuclear weapons contract is required to set up a fund to carry out the purposes of the Bill and to put in that fund annually 2.5 per cent of its gross revenue from that contract in that year. Companies and committees are also to seek additional sources of funding to carry out the purposes of the Bill.

The Bill gives the Minister discretion to assist committees and companies in preparing for and carrying out conversion plans and to assist them financially in carrying out their purposes.

The Bill makes it an offence to contravene any provision of the Act and the maximum penalty for a contravention is set at \$10,000 for persons other than corporations and at \$100,000 for corporations.

Bill 194**1987**

**An Act to provide for the Conversion
of Technologies and Skills used in the
Nuclear Weapons Industry to Civilian Uses**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“committee” means an economic conversion planning committee established under section 3;

“conversion plan” means a plan established under section 4;

“facility” means a facility where a nuclear weapons contractor produces, repairs, modifies, stores or handles nuclear weapons material in Ontario;

“fund” means a fund established under section 7;

“Minister” means the Minister of Industry, Trade and Technology;

“nuclear weapons contract” means a contract under which a corporation, agency or other establishment agrees to produce, repair, modify, store or handle nuclear weapons material in Ontario;

“nuclear weapons contractor” or “contractor” means a corporation, agency or other establishment that is engaged in or enters into a nuclear weapons contract;

“nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

Economic
conversion
program

2. A nuclear weapons contractor shall establish and maintain programs in accordance with this Act to prepare for the termination of its nuclear weapons contract by encouraging the conversion of technologies and skills developed or used in that contract to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of that contract.

Economic
conversion
planning
committee
established

3.—(1) A nuclear weapons contractor shall establish an economic conversion planning committee at each of its facilities forthwith upon entering into a nuclear weapons contract and shall cause it to be maintained thereafter.

Idem

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall establish the economic conversion planning committee forthwith upon the coming into force of this Act.

Composition

(3) A committee shall be composed of not fewer than six members, with at least half of the members representing the employees at the facility and the remaining members representing the contractor.

Idem

(4) The members representing the employees at the facility shall be selected from time to time,

(a) by the union bargaining units if the employees or some of them are represented by one or more union bargaining units; or

(b) by representatives democratically elected by the employees if none of them are represented by a union bargaining unit.

Community
represent-
atives

(5) The Minister shall appoint as non-voting members of a committee not more than three persons who live in the municipality in which a facility is located and whose appointments are approved by the municipal council.

Office
space

(6) A nuclear weapons contractor shall provide free of charge to its committee whatever office space, furniture and office supplies that the committee reasonably needs to carry out its functions.

Committee
work

(7) A nuclear weapons contractor shall allow members of the committee to attend meetings and carry on their duties for the committee during the working day and any time spent for the committee shall be computed as working time for the purposes of computing remuneration and benefits.

4.—(1) It is the function of a committee and it has the power to, Functions
of
committee

- (a) develop and review a comprehensive plan,
 - (i) for converting the facility to productive activities that are acceptable to the contractor and not related to nuclear weapons purposes,
 - (ii) for providing the benefits required by this Act for those employees who lose their jobs as a result of the termination of the nuclear weapons contract, and
 - (iii) for assisting those employees who will not be employed by the contractor after the conversion in finding reasonable alternative employment;
- (b) oversee the implementation of the plan described in clause (a) when the nuclear weapons contract is terminated or completed;
- (c) ensure that the facility provides occupational retraining and re-employment counselling services, or ensure that such retraining and services are provided by an agency outside the facility, for all employees whose jobs are lost, whether temporarily or permanently, as a result of the termination or completion of a nuclear weapons contract;
- (d) assist the contractor in seeking outside sources of funding, as needed, to carry out the purposes of this Act; and
- (e) invest any money held in the fund in investments approved under the *Trustee Act*, and allocate that money in the manner provided for under this Act.

R.S.O. 1980,
c. 512

(2) In developing a conversion plan, the committee shall attempt to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel employed by the facility before the conversion. Conversion
plans

5.—(1) If a committee is not able to agree on a conversion plan, the committee shall make a report to the Minister containing the recommendations of the representatives of the employees and of the contractor and the opinions of any representatives of the community. Where no
agreement

Minister
to decide

(2) If the Minister receives a report under subsection (1), he or she shall assist the committee, and where the Minister determines after such assistance that the committee is unable to agree on a conversion plan, the Minister shall assist the committee in whatever way he or she considers appropriate in formulating and carrying out a plan for providing the benefits required under section 6 and assisting employees in obtaining alternative employment.

Benefits
to
employees

R.S.C. 1970,
c. U-2

6. If an employee temporarily or permanently loses a job as a result of the termination of a nuclear weapons contract and the employee is eligible to receive benefits under the *Unemployment Insurance Act* (Canada), the contractor shall pay from the fund to that employee a benefit that when combined with the benefit under the *Unemployment Insurance Act* (Canada) is sufficient to ensure that the employee maintains an income at a level equal to 90 per cent of the employee's annual salary or wages immediately preceding the loss.

Money
for plan

7.—(1) A nuclear weapons contractor shall establish a fund to assist in carrying out a conversion plan and shall pay into the fund annually an amount equal to 2.5 per cent of the contractor's gross revenue from the contract for that year.

Idem

(2) A contractor, with the assistance of the committee, shall attempt to obtain whatever additional money for the fund it considers necessary to carry out the conversion plan.

Management
of fund

(3) The committee shall manage the fund.

Allocation
of money

(4) If there is not enough money in a fund to properly carry out a conversion plan, the committee shall apply what money there is in the fund first for providing the benefits to employees required under section 6, second for assisting employees who lose their jobs in retraining and in obtaining alternative employment, and third in financing any retooling of the facility required to carry out the conversion plan.

Idem

(5) If, after the assistance of the Minister, a committee is unable to agree on a conversion plan, it shall apply the money in the fund first for providing the benefits to employees required under section 6 and second for assisting employees who lose their jobs in retraining and in obtaining alternative employment.

Minister
to assist

8. The Minister may offer whatever assistance he or she considers appropriate to a committee or a contractor, including, without limiting the generality of the foregoing,

- (a) developing and coordinating information concerning,
 - (i) critical issues that should be addressed in formulating a conversion plan,
 - (ii) organizations and individual consultants who might be of assistance to committees in formulating a conversion plan,
 - (iii) the issues involved in the retraining of personnel,
 - (iv) the requirements of programs for retraining of various classes of personnel, and
 - (v) programs that are available for the retraining of various classes of personnel;
- (b) providing financial assistance by way of a grant or a loan to supplement a fund;
- (c) assisting a committee and a contractor in carrying out the conversion plan.

9.—(1) A nuclear weapons contractor shall cause its committee to report to the Minister concerning the development and implementation of its plan within one year after the committee is established and yearly thereafter.

Report to
Minister

(2) If, after receiving a report, the Minister is not satisfied with the progress of a committee, the Minister shall assist the committee in whatever way he or she considers appropriate in carrying out its functions.

Minister
to help

10.—(1) A nuclear weapons contractor shall provide to the Minister upon entering into a nuclear weapons contract and annually thereafter such information concerning the nuclear weapons contract as the Minister may require.

Report on
contract

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall provide the information required under subsection (1) forthwith after the coming into force of this Act and annually thereafter.

Transition

11. No action shall be instituted against a member of a committee for an act done in good faith in the execution or intended execution of the person's duty or for an alleged

Protection
from
liability

neglect or default in the execution in good faith of the person's duty.

Offence

12.—(1) A person who contravenes a provision of this Act and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Idem

(2) The maximum fine that may be imposed on a corporation is \$100,000 and not as provided in subsection (1).

Commence-
ment

13. This Act comes into force on the day it receives Royal Assent.

Short title

14. The short title of this Act is the *Nuclear Weapons Economic Conversion Act, 1987*.

Bill 195

Government Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO
35 ELIZABETH II, 1987

Bill 195

**An Act permitting
Trustees
and other Persons
to dispose of
South African Investments**

The Hon. I. Scott
Attorney General

Projet de loi 195

du gouvernement

2^e SESSION, 33^e LÉGISLATURE, ONTARIO
35 ELIZABETH II, 1987

Projet de loi 195

**Loi permettant
aux fiduciaires
et à d'autres personnes
d'aliéner
les placements sud-africains**

L'honorable I. Scott
procureur général



1st Reading February 5th, 1987
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 5 février 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The purpose of the Bill is to authorize trustees of trusts and persons responsible for managing and investing the assets of registered charities and pension funds to dispose of South African investments without committing a breach of duty even if the value of the property they manage decreases as a result. (Under the present law, these persons have a duty to invest the property they manage in reasonable and proper investments without consideration of moral issues.)

The Bill provides that a trustee of a trust or person responsible for managing and investing the assets of a registered charity or pension fund who disposes of a South African investment, acting in a reasonably prudent manner, does not commit a breach of duty even if as a result the value of the property decreases.

However, trustees and persons responsible for pension funds are required, before they dispose of a South African investment, to obtain the consent of a majority of the identifiable beneficiaries (if there are no more than 100 identifiable beneficiaries) or to satisfy themselves that a majority of the identifiable beneficiaries would consent (if there are more than 100).

“South African investment” is defined in subsection 1 (1).

NOTES EXPLICATIVES

Le projet de loi permettrait aux fiduciaires de fiducies et aux personnes chargées de la gestion et du placement de biens appartenant aux organismes de charité enregistrés et aux caisses de retraite d'aliéner des placements sud-africains sans manquer à leur devoir, même si la valeur des biens qu'ils gèrent diminue en raison de cette aliénation. (La loi existante impose à ces personnes le devoir d'investir les biens qu'ils gèrent dans des placements raisonnables et appropriés, sans égard aux questions d'ordre moral.)

Le projet de loi prévoit que le fiduciaire d'une fiducie ou la personne responsable de la gestion et du placement des biens d'un organisme de charité enregistré ou d'une caisse de retraite qui aliène un placement sud-africain en faisant preuve d'une prudence normale ne manque pas à son devoir même si la valeur des biens diminue en raison de cette aliénation.

Avant d'aliéner un placement sud-africain, il incombe cependant aux fiduciaires et aux personnes responsables des caisses de retraite d'obtenir le consentement d'une majorité des bénéficiaires identifiables (si leur nombre ne dépasse pas 100) ou de s'assurer qu'une majorité d'entre eux donneraient leur consentement (si leur nombre est supérieur à 100).

L'expression «placement sud-africain» est définie au paragraphe 1 (1).

Bill 195

1987

**An Act permitting
Trustees
and other Persons
to dispose of
South African Investments**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“organisme
de charité
enregistré”
R.S.C. 1952,
c. 148

“registered charity” means a registered charity within the meaning of paragraph 110 (8) (c) of the *Income Tax Act* (Canada);

“Afrique du
Sud”

“South Africa” means the Republic of South Africa;

“placement
sud-africain”

“South African investment” means,

- (a) an investment in shares of a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (b) an investment in shares of a corporation that has a substantial interest in a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (c) an investment in shares of a corporation a substantial interest in which is held by one or more of the following,
 - (i) corporations that are incorporated under the laws of South Africa,
 - (ii) corporations that carry on business in South Africa,

Projet de loi 195

1987

**Loi permettant
aux fiduciaires
et à d'autres personnes
d'aliéner
les placements sud-africains**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«action assortie du droit de vote» Action d'une catégorie des actions d'une compagnie assortie d'un droit de vote absolu ou assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»

«Afrique du Sud» La République d'Afrique du Sud. «South Africa»

«fiduciaire» Fiduciaire d'une fiducie. S'entend en outre d'une personne qui est responsable de la gestion et du placement de biens d'un organisme de charité enregistré ou d'une caisse de retraite. «trustee»

«organisme de charité enregistré» Organisme de charité enregistré au sens de l'alinéa 110 (8) c) de la *Loi de l'impôt sur le revenu* (Canada). «registered charity»
S.R.C. 1952, chap. 148

«placement sud-africain» Placement qui, selon le cas : «South African investment»

- a) est effectué dans des actions d'une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- b) est effectué dans des actions d'une compagnie qui a une participation importante dans une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;

- (iii) persons who are citizens of South Africa or who ordinarily reside there,
- (d) an investment in shares of a corporation a substantial interest in which is held by a corporation that also holds a substantial interest in another corporation that is incorporated under the laws of South Africa or that carries on business in South Africa,
- (e) an investment in bonds, debentures or other evidences of indebtedness issued or guaranteed by the Government of South Africa or by a corporation whose shares are a South African investment under clause (a), (b), (c) or (d),
- (f) any other investment that has a substantial connection with South Africa;

“fiduciaire” “trustee” means a trustee of a trust and includes a person who is responsible for investing and managing the assets of a registered charity or a pension fund;

“action assortie du droit de vote” “voting share” means a share of a class of shares of a corporation that carries voting rights under all circumstances or under some circumstances that have occurred and are continuing.

Substantial interest (2) A person shall be deemed to have a substantial interest in a corporation if the person beneficially owns or controls 10 per cent or more of the issued and outstanding voting shares in the corporation.

Application of Act **2.** This Act applies to all trusts, registered charities and pension funds.

Trustee not liable R.S.O. 1980, c. 512 **3.** Despite the *Trustee Act* or any other law, a trustee who acts in accordance with this Act and in a reasonably prudent manner does not commit a breach of statutory or other legal duty by,

- (a) disposing of a South African investment even if the value of the property for which the trustee is responsible decreases or fails to increase sufficiently as a result; or

- c) est effectué dans des actions d'une compagnie dans laquelle une ou plusieurs des personnes suivantes ont une participation importante :
 - (i) des compagnies qui sont constituées en vertu des lois de l'Afrique du Sud,
 - (ii) des compagnies qui font affaire en Afrique du Sud,
 - (iii) des citoyens de l'Afrique du Sud ou des personnes qui ont leur résidence ordinaire en Afrique du Sud;
- d) est effectué dans des actions d'une compagnie dans laquelle une participation importante appartient à une compagnie qui a également une participation importante dans une autre compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- e) est effectué dans des obligations, débentures ou autres titres de créance émis ou garantis par le gouvernement de l'Afrique du Sud ou par une compagnie dont les actions constituent un placement sud-africain aux termes des alinéas a), b), c) ou d);
- f) a, par ailleurs, des liens étroits avec l'Afrique du Sud.

(2) Une personne est réputée avoir une participation importante dans une compagnie si elle est propriétaire bénéficiaire ou qu'elle a le contrôle de 10 pour cent ou plus des actions de la compagnie émises, en circulation et assorties du droit de vote.

Participation importante

2 La présente loi s'applique aux fiducies, aux organismes de charité enregistrés et aux caisses de retraite.

Champ d'application

3 Malgré la *Loi sur les fiduciaires* et toute autre loi, le fiduciaire qui agit conformément à la présente loi et fait preuve d'une prudence normale ne manque pas au devoir que lui impose la loi :

Absence de responsabilité
L.R.O. 1980, chap. 512

- a) s'il aliène un placement sud-africain, même s'il en résulte une diminution ou une augmentation insuffisante de la valeur des biens dont il a la responsabilité;

(b) refusing to acquire a South African investment.

Definition

4.—(1) In this section, “identifiable beneficiary” means an existing person who can be clearly identified as a beneficiary of a trust or a pension fund and does not include a person who has been declared mentally incompetent.

Consent of
beneficiaries
required

(2) If there are no more than 100 identifiable beneficiaries of a trust or a pension fund, section 3 applies only if a majority of them consent to the intended transaction and their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Idem

(3) If there are more than 100 identifiable beneficiaries of a trust or pension fund, section 3 applies only if the trustee has made inquiries and has reasonable grounds to believe that a majority of them would consent to the intended transaction and that their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Consent
of minor

(4) A person who has lawful custody of an identifiable beneficiary who is less than eighteen years of age may give or refuse consent on the beneficiary’s behalf.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *South African Trust Investments Act, 1987*.

- b) s'il refuse d'investir ces biens dans un placement sud-africain.

4 (1) Dans le présent article, «bénéficiaire identifiable» s'entend d'une personne existante qui peut être identifiée avec exactitude en tant que bénéficiaire d'une fiducie ou d'une caisse de retraite. Est toutefois exclue la personne qui fait l'objet d'une déclaration d'incapacité mentale.

Définition

(2) Lorsqu'une fiducie ou une caisse de retraite n'a pas plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si une majorité d'entre eux dont l'intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse donnent leur consentement à l'opération projetée.

Consentement
des
bénéficiaires

(3) Lorsqu'une fiducie ou une caisse de retraite a plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si le fiduciaire, s'étant renseigné, a des motifs raisonnables de croire qu'une majorité d'entre eux donneraient leur consentement à l'opération projetée et que leur intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse.

Idem

(4) Une personne qui a la garde légitime d'un bénéficiaire identifiable âgé de moins de dix-huit ans peut donner ou refuser le consentement au nom du bénéficiaire.

Consentement
du mineur

5 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

6 Le titre abrégé de la présente loi est *Loi de 1987 sur les placements sud-africains détenus en fiducie*.

Titre abrégé

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Publications

Bill 196

Private Member's Bill

2ND SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1987

Bill 196

An Act to amend the Teachers' Superannuation Act, 1983

Mr. Davis



<i>1st Reading</i>	February 5th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to broaden the number of persons who have their retirement allowance computed on the basis of their five best years. In 1983, the five year criteria replaced the seven year criteria as the basis for calculating the allowance. Under the Act, teachers who retired on or after the 31st day of May, 1982 benefitted from this change. The proposed amendment would eliminate that restriction and make the five year criteria applicable to all retired teachers.

Bill 196

1987

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 76 (2) of the *Teachers' Superannuation Act, 1983*, being chapter 84, is repealed and the following substituted therefor:

(2) Instalments payable on or after the 1st day of September, 1984 for allowances payable to persons who ceased to be employed in education before the 1st day of September, 1984 shall be paid in amounts equal to the amounts that would have been paid if this Act had been in force. Transitional

2. This Act shall be deemed to have come into force on the 1st day of September, 1984. Commence-
ment

3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1987*. Short title

72 ON
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356

Bill 197



An Act to amend the Architects Act, 1984

The Hon. I. Scott
Attorney General

1st Reading February 9th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTIONS 1 to 5. The amendments will allow the Association to establish its own indemnity plan to provide an indemnity against liability that may be incurred in the practice of architecture by members of the Association, holders of certificates of practice and holders of temporary licences. The Association will be able to require members and holders to participate in an indemnity plan and to cancel a licence, certificate of practice or temporary licence of a member or holder who does not pay premiums, levies or deductibles in respect of insurance or an indemnity plan.

SECTION 6. The re-enactment of section 51 adds members of the Council and members of the Joint Practice Board to the list of persons entitled to immunity from civil proceedings in respect of their duties and the exercise of their powers under this Act or the *Professional Engineers Act, 1984*. The re-enactment also adds these persons to the list of persons who are entitled to be indemnified in respect of actions brought against a person referred to in subsection 51 (2).

Bill 197**1987****An Act to amend the Architects Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Architects Act, 1984*, being chapter 12, is amended by adding thereto the following clause:

(oa) “indemnity plan” means an indemnity plan established under subsection 40 (2).

2. Subsection 7 (1) of the said Act is amended by adding thereto the following paragraphs:

26a. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, through participation in an indemnity plan, to obtain and maintain an indemnity against liability that may be incurred in the practice of architecture and prescribing the minimum amounts of such indemnity;

26b. exempting, subject to such terms and conditions as may be set out in the regulations, any class of members, holders of certificates of practice or holders of temporary licences from the requirement to participate in an indemnity plan and classifying members, holders of certificates of practice or holders of temporary licences for the purposes of any such exemption.

3. Subsection 8 (1) of the said Act is amended by adding thereto the following paragraph:

24a. requiring the payment and remittance of premiums and deductibles for members, holders of certificates of practice and holders of temporary licences and prescribing levies that shall be paid by members of the Association, holders of certificates of practice

and holders of temporary licences in respect of an indemnity provided under an indemnity plan.

4. Section 28 of the said Act is amended by adding thereto the following subsections:

Cancellation
for failure to
pay
premiums,
etc.

(3) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any premium, levy or deductible in connection with insurance against professional liability or in respect of participation in an indemnity plan, or, where the holder of the licence, certificate of practice or temporary licence has not applied to participate in the indemnity plan or ceases to meet the terms and conditions of exemption from participation in an indemnity plan, after giving the member or holder at least ten days notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the member's or holder's professional conduct while a member or holder.

Reinstatement

(4) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (3) is entitled to have the licence, certificate of practice or temporary licence reinstated upon payment of all unpaid premiums, levies and deductibles and upon satisfying any other requirements prescribed by the regulations.

5. Section 40 of the said Act is repealed and the following substituted therefor:

Professional
liability
insurance,
indemnity
plan

40.—(1) No member of the Association, holder of a certificate of practice or holder of a temporary licence shall engage in the practice of architecture,

- (a) unless insured against professional liability in accordance with the regulations or in accordance with arrangements made under clause (2) (a);
- (b) unless, where required by the regulations, the member or holder participates in an indemnity plan; or
- (c) unless exempted by the regulations from the requirements of clauses (a) and (b).

Idem

(2) The Association,

- (a) may make arrangements respecting insurance against professional liability for members of the

Association, holders of certificates of practice and holders of temporary licences;

- (b) may establish, maintain and administer an indemnity plan to provide an indemnity against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

(3) The Association may set premiums and establish levies in respect of indemnity plans and arrangements under subsection (2) and prescribe terms and conditions in relation to any such indemnity plan or arrangement. Premiums

(4) The *Insurance Act* does not apply in respect of an indemnity plan. Non-application of R.S.O. 1980, c. 218

6. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or any other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. Immunity 1984, c. 13

(2) Every person who is a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association, and the person's heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Council, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against, Indemnification

- (a) all costs, charges and expenses whatsoever that the person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against the person, for or in respect of any act, deed, matter or thing whatsoever, made, done or committed by the person, in the performance or intended performance of a duty or in the exercise or in the intended exercise of a power under this Act

1984, c. 13

or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power or otherwise in or about the execution of such duties; and

- (b) all other costs, charges and expenses that the person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by the person's own wilful neglect or default.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Architects Amendment Act, 1987*.

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LIBRARY
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Bill 197

2ND SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 197

*(Chapter 13
Statutes of Ontario, 1987)*

An Act to amend the Architects Act, 1984

The Hon. I. Scott
Attorney General

<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	February 11th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987



Bill 197**1987****An Act to amend the Architects Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Architects Act, 1984*, being chapter 12, is amended by adding thereto the following clause:

(oa) “indemnity plan” means an indemnity plan established under subsection 40 (2).

2. Subsection 7 (1) of the said Act is amended by adding thereto the following paragraphs:

26a. requiring members, holders of certificates of practice or holders of temporary licences, or all of them, through participation in an indemnity plan, to obtain and maintain an indemnity against liability that may be incurred in the practice of architecture and prescribing the minimum amounts of such indemnity;

26b. exempting, subject to such terms and conditions as may be set out in the regulations, any class of members, holders of certificates of practice or holders of temporary licences from the requirement to participate in an indemnity plan and classifying members, holders of certificates of practice or holders of temporary licences for the purposes of any such exemption.

3. Subsection 8 (1) of the said Act is amended by adding thereto the following paragraph:

24a. requiring the payment and remittance of premiums and deductibles for members, holders of certificates of practice and holders of temporary licences and prescribing levies that shall be paid by members of the Association, holders of certificates of practice

and holders of temporary licences in respect of an indemnity provided under an indemnity plan.

4. Section 28 of the said Act is amended by adding thereto the following subsections:

Cancellation
for failure to
pay
premiums,
etc.

(3) The Registrar may cancel a licence, certificate of practice or temporary licence for non-payment of any premium, levy or deductible in connection with insurance against professional liability or in respect of participation in an indemnity plan, or, where the holder of the licence, certificate of practice or temporary licence has not applied to participate in the indemnity plan or ceases to meet the terms and conditions of exemption from participation in an indemnity plan, after giving the member or holder at least ten days notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the member's or holder's professional conduct while a member or holder.

Reinstatement

(4) A person who was a member or a holder of a certificate of practice or temporary licence whose licence, certificate of practice or temporary licence was cancelled by the Registrar under subsection (3) is entitled to have the licence, certificate of practice or temporary licence reinstated upon payment of all unpaid premiums, levies and deductibles and upon satisfying any other requirements prescribed by the regulations.

5. Section 40 of the said Act is repealed and the following substituted therefor:

Professional
liability
insurance,
indemnity
plan

40.—(1) No member of the Association, holder of a certificate of practice or holder of a temporary licence shall engage in the practice of architecture,

- (a) unless insured against professional liability in accordance with the regulations or in accordance with arrangements made under clause (2) (a);
- (b) unless, where required by the regulations, the member or holder participates in an indemnity plan; or
- (c) unless exempted by the regulations from the requirements of clauses (a) and (b).

Idem

(2) The Association,

- (a) may make arrangements respecting insurance against professional liability for members of the

Association, holders of certificates of practice and holders of temporary licences;

- (b) may establish, maintain and administer an indemnity plan to provide an indemnity against professional liability for members of the Association, holders of certificates of practice and holders of temporary licences.

(3) The Association may set premiums and establish levies in respect of indemnity plans and arrangements under subsection (2) and prescribe terms and conditions in relation to any such indemnity plan or arrangement.

Premiums

(4) The *Insurance Act* does not apply in respect of an indemnity plan.

Non-application of R.S.O. 1980, c. 218

6. Section 51 of the said Act is repealed and the following substituted therefor:

51.—(1) No action or other proceeding for damages shall be instituted against the Association, a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or any other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity

1984, c. 13

(2) Every person who is a member of the Council, a member of the Association, a member of a committee of the Association, the chairman or other member of the Joint Practice Board or an officer, employee, agent or appointee of the Association, and the person's heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Council, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

Indemnification

- (a) all costs, charges and expenses whatsoever that the person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against the person, for or in respect of any act, deed, matter or thing whatsoever, made, done or committed by the person, in the performance or intended performance of a duty or in the exercise or in the intended exercise of a power under this Act

1984, c. 13

or the *Professional Engineers Act, 1984*, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power or otherwise in or about the execution of such duties; and

- (b) all other costs, charges and expenses that the person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by the person's own wilful neglect or default.


Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Architects Amendment Act, 1987*.

Bill 198



An Act to amend the Residential Rent Regulation Act, 1986

Mr. Reville

1st Reading February 9th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides that a tenant in a post-1975 building who has been given a notice of rent increase to take effect on or after January 1st, 1987, that is greater than the guideline amount for 1987 is liable to pay an increase only up to the amount of the guideline until such time as an order setting the maximum rent made on the application of the landlord under section 74 takes effect.

Bill 198

1987

**An Act to amend the
Residential Rent Regulation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 73 (2) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is amended by adding at the commencement thereof “Subject to subsection (2a)”.

(2) Section 73 of the said Act is amended by adding thereto the following subsection:

(2a) Where the rent increase set out in the notice referred to in subsection (2) is to take effect on or after the 1st day of January, 1987, the rent increase that may be charged and collected by the landlord, until such time as an order setting the maximum rent that may be charged for the rental unit takes effect, is the increase permitted by clause 71 (1) (b).

Where
increase
takes effect
on or after
January 1st,
1987

2. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Commence-
ment

3. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1987*.

Short title

Bill 199

An Act to amend the Equality Rights Statute Law Amendment Act, 1986

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

Subsection 33 (53) of the Act is an amendment to the *Mental Health Act* limiting the circumstances under which a physician who is unable to obtain consent to treatment of a patient in a psychiatric facility may apply to a review board for an order for treatment of that patient. Bill 190, introduced on January 28th, 1987, would repeal subsection 33 (53) and replace it with a number of provisions explained in that Bill. The purpose of this Bill is to delay the commencement of subsection 33 (53) from April 1st, 1987 until June 1st, 1987 so that Bill 190 can be considered before subsection 33 (53) comes into effect.

Bill 199

1987

**An Act to amend the
Equality Rights Statute Law Amendment Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 70 (4) of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, is amended by striking out “April” in the second line and inserting in lieu thereof “June”.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Equality Rights Statute Law Amendment Amendment Act, 1987*. Short title

Bill 199

2ND SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 199

(Chapter 14
Statutes of Ontario, 1987)

An Act to amend the Equality Rights Statute Law Amendment Act, 1986

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	February 9th, 1987
<i>2nd Reading</i>	February 10th, 1987
<i>3rd Reading</i>	February 11th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 199**1987**

**An Act to amend the
Equality Rights Statute Law Amendment Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 70 (4) of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, is amended by striking out “April” in the second line and inserting in lieu thereof “June”.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Equality Rights Statute Law Amendment Amendment Act, 1987*. Short title

Bill 200

An Act to amend the Gasoline Handling Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading February 10th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The main purpose of the Bill is to provide a means to ascertain the number and location of underground tanks located on private outlets that are being used to store gasoline or associated products. In connection with this some safety requirements are being implemented.

The use of the terms "private outlet" and "retail outlet" are being substituted for "consumer outlet" and "service station" respectively.

Bill 200

1987

An Act to amend the Gasoline Handling Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (c) of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 1 of the said Act is amended by adding thereto the following clauses:

(la) “private outlet” means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;

.

(ma) “retail outlet” means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers.

(3) Clause 1 (n) of the said Act is repealed.

2. Clause 2 (c) of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

3. Section 3 of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

4.—(1) Clause 6 (1) (a) of the said Act is amended by striking out “service station” and inserting in lieu thereof “retail outlet”.

(2) Subsection 6 (2) of the said Act is amended by striking out “consumer outlet” in the second line and inserting in lieu thereof “private outlet” and by striking out “service station” in the second and third lines and inserting in lieu thereof “retail outlet”.

5. The said Act is amended by adding thereto the following section:

Application
at private
outlets only

6a.—(1) The application of this section is limited to underground tanks located at private outlets or at sites that were private outlets.

Declaration

(2) Any owner of an underground tank that is being used for the storage of gasoline or an associated product or, if the owner is not the operator of the private outlet, the operator of the outlet using the tank may file with the Director a declaration relating to the tank in a form prescribed by the regulations.

Endorsed
copy

(3) The Director, upon receiving a declaration under subsection (2), shall forward, to the person sending in the declaration, an endorsed copy thereof.

Idem

(4) No person, after the 31st day of December, 1987 or such later date as may be prescribed by regulation, shall,

- (a) use an underground tank or cause an underground tank to be used unless a declaration relating to the tank has been endorsed by the Director; or
- (b) put gasoline or an associated product into an underground tank unless a declaration relating to the tank has been endorsed by the Director.

Supplying
gasoline to
underground
tanks

(5) Every person who supplied gasoline or an associated product to an underground tank at any time in 1986 shall, by the 31st day of March, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

Idem

(6) Every person who supplied gasoline or an associated product to an underground tank between the 1st day of January, 1987 and the 30th day of September, 1987 shall, by the 31st day of October, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

(7) Subsection (6) does not apply to a person who has supplied the address of the outlet and name of the purchaser under subsection (5). Idem

(8) Upon the Director receiving satisfactory evidence that an underground tank and associated piping are protected from external corrosion in accordance with the regulations, the Director shall issue a written acknowledgment thereof. Acknowledgment of tank protection

(9) No person shall put gasoline or an associated product in an underground tank after the 1st day of January, 1991 unless an acknowledgment under subsection (8) has been issued in respect of the tank. Requirement for acknowledgment

(10) Every owner of an underground tank that has been used for the storage of gasoline or an associated product but is not in use when this section comes into force or ceases to be used before a declaration is filed under subsection (2) shall file with the Director a declaration relating to the tank in a form prescribed by the Director within six months after this section comes into force or the tank ceases to be used, whichever is the later. Out of use tanks

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Gasoline Handling Amendment Act, 1987*. Short title

Bill 201

An Act to amend the Children's Law Reform Act

Mr. O'Connor

1st Reading February 10th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Act provides a new mechanism for the resolution of disputes concerning access to children.

Where an access order already exists, the court may appoint a mediator. On receiving the mediator's report, the court may vary the order in accordance with the terms agreed to by the parties or the terms recommended by the mediator. The court may draw an adverse inference from a party's unwillingness to co-operate in the mediation with respect to his or her ability to act in the best interests of the child.

The court may also order that access to a child be arranged through a supervised access centre established by the Attorney General.

The Bill also adds to the factors to be considered by a court in determining the best interests of the child and the importance of maintaining emotional ties between the child and his or her grandparents.

Bill 201

1987

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 21 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

21. A parent or grandparent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of or access to the child.

Application
for order

2. Subsection 24 (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following clause:

(aa) the importance of maintaining emotional ties between the child and his or her grandparents.

3. Section 35 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsection:

(3) The Attorney General may establish one or more supervised access centres.

Supervised
access centres

(4) The purpose of a supervised access centre shall be,

Idem

- (a) to provide a neutral place for visits with a child, with or without supervision; and
- (b) to provide a neutral place where a child may be picked up and dropped off by a person exercising a right of access.

4. The said Act is amended by adding thereto the following sections:

Application
for mediation
of
access
disputes

37a.—(1) Subject to subsection (2), where a court is satisfied upon application by a person in whose favour an order has been made for access to a child that there are reasonable and probable grounds for believing that a person in whose favour an order has been made for custody of the child is unlawfully withholding the child from the applicant, the court shall by order appoint a person to mediate the access dispute.

Exceptions

(2) The court shall not make an order under subsection (1) if it is satisfied that,

(a) any party lacks the ability to participate effectively in the mediation, whether or not the party is willing to participate; or

(b) the application is not made in good faith.

Purpose of
mediation

(3) The purpose of the mediation shall be to reduce acrimony that may exist between the parties and to obtain an agreement that will assure the child's close and continued relationship with each of the parties.

Agreement
by
parties

(4) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Qualifica-
tions of
mediator

(5) A person appointed under subsection (1) or (7) shall be skilled in the practice of family mediation.

Consent to
act

(6) The court shall not appoint a person under subsection (1) or (7) unless the person has consented to act as mediator and to file a report with the court within the period of time specified by the court.

Replacement
of mediator

(7) If the court is satisfied upon application made in good faith that,

(a) there are reasonable grounds for believing that, despite the willingness of the parties to co-operate in the mediation, the mediator is unlikely to obtain an agreement between them; or

(b) a party has a reasonable apprehension of bias on the part of the mediator,

the court may by order appoint another person to replace the person appointed under subsection (1).

Duties of
mediator

(8) It is the duty of a mediator,

- (a) to confer with the parties and endeavour to obtain an agreement in respect of the access dispute;
- (b) to terminate the mediation if, in the mediator's opinion, its continuation is likely to result in physical or emotional harm to a party;
- (c) to terminate the mediation if, in the mediator's opinion, it is unlikely that its continuation will lead to an agreement between the parties;
- (d) to advise the parties if, in the mediator's opinion, an agreement reached between them is unreasonable or not in the best interests of the child; and
- (e) to promote the best interests of the child.

(9) The mediator may confer with the child who is the subject of the access order, with other members of the child's family and with persons involved in the care and upbringing of the child.

Consultation with child, etc.

(10) If, in the mediator's opinion, a party is likely to suffer physical or emotional harm as a result of meeting with another party to the mediation, the mediator may conduct the mediation by meeting with the parties separately.

Consultation without the other party

(11) If a party does not co-operate in the mediation, the court may require the party to pay all or a part of the mediator's fees and expenses.

Fees and expenses

37b.—(1) The mediator shall file a full report on the mediation, including anything that the mediator considers relevant to the access dispute and a statement showing the amount of time the mediator spent conferring with the parties, the child and any other person.

Mediator's report

(2) The mediator shall include in the report,

Idem

- (a) a statement of the terms that the parties have agreed to with respect to the custody of or access to the child, signed by the parties; or
- (b) a statement that the parties did not reach agreement.

(3) If, in the opinion of the mediator, the parties failed to reach agreement as a result of the unwillingness of either of them to co-operate in the mediation, the mediator shall include a statement to that effect in the report.

Non-co-operation

Recommendations

(4) The mediator may recommend in the report,

- (a) that the terms of the order in respect of the custody of or access to the child be varied in accordance with the terms agreed to by the parties or the terms, if any, recommended by the mediator;
- (b) that the child or any person with a right to custody of or access to the child obtain individual or family counselling;
- (c) that any person with a right to custody of or access to the child participate in a parental education program;
- (d) that access to the child be carried out under supervision or at a supervised access centre established under subsection 35 (3); or
- (e) any other measure likely to resolve the access dispute.

Filing of report

(5) The mediator shall file the report with the clerk or registrar of the court.

Copies of report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties, to their counsel and to counsel, if any, representing the child.

Powers of court

37c.—(1) On motion, the court may,

- (a) by order vary an order in respect of custody or access in accordance with the terms agreed to by the parties or the terms recommended by the mediator;
- (b) by order require a party to implement any of the mediator's recommendations; and
- (c) make any other order the court considers necessary and proper in the circumstances.

Effect of party's non-co-operation

(2) If a party was unwilling to co-operate in the mediation, the court may draw an adverse inference in respect of the party's ability and willingness to act in the best interests of the child.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

6. The short title of this Act is the *Children's Law Reform Amendment Act, 1987*. Short title

Bill 202

An Act to amend the Drugless Practitioners Act

Mr. Shymko

1st Reading February 10th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to ensure that naturopaths are covered by the *Drugless Practitioners Act*.

SECTION 1. Clause 1 (b) now reads:

(b) “*drugless practitioner*” means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method.

The amendment makes it clear that naturopaths are included in the definition.

SECTION 2. Section 4 now reads:

4. *The Lieutenant Governor in Council may make regulations classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes.*

The amendment makes it clear in the statute that naturopaths are a class of drugless practitioners under the Act.

Bill 202

1987

An Act to amend the Drugless Practitioners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “and includes a naturopath”.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Naturopaths are a class of persons admitted to practise under this Act. Naturopaths

(2) The Lieutenant Governor in Council may make regulations classifying persons in addition to naturopaths who may be admitted to practice under this Act. Regulations

(3) The Lieutenant Governor in Council may make regulations for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Drugless Practitioners Amendment Act, 1987*. Short title

Bill 203

An Act to amend the Public Lands Act

The Hon. V. Kerrio
Minister of Natural Resources



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The section is rewritten to provide for the appointment of officers by the Minister rather than by the Lieutenant Governor in Council and to authorize the officers to enter upon private land to discharge their duties. The section also provides that officers appointed under the *Forest Fires Prevention Act* are deemed to be officers appointed under the *Public Lands Act*.

SECTION 2.—Subsection 1. Section 13 of the Act deals with areas in territory without municipal organization that are designated as restricted areas by the Minister. Subsection 13 (3) of the Act now reads as follows:

(3) Every person who erects or causes to be erected a building or structure or makes or causes to be made any improvement on lands in an area designated by the Minister as a restricted area without a permit therefor and every person who contravenes or causes to be contravened any term or condition of a permit issued under this section is guilty of an offence and on conviction is liable to a fine of not more than \$500.

The amendment increases the maximum fine from \$500 to \$5,000.

Subsection 2. The new subsection 13 (3a) authorizes an officer to order that work that is being done without a permit cease and makes it an offence to continue such work after an order has been made.

The new subsection 13 (3b) authorizes a court to order the removal of any building or structure erected or improvement made in contravention of section 13 of the Act and provides that the Minister may effect the removal and recover the cost for so doing.

SECTION 3. The new section 13a requires a work permit where any activity such as mining, logging or industrial operations is to be carried on or any improvements are to be constructed on public lands. The section also creates an offence and provides penalties for contravention of the section. Provision is made to provide for appeals from refusal to issue or renew permits and to provide for exemptions for the requirement to have a permit.

SECTION 4. Subsection 16 (1) of the Act clarifies that the period of actual possession is to be determined by the *Limitations Act*. Subsection 16 (2) gives retroactive effect to quit claim letters patent that are issued to a predecessor in title.

SECTION 5. The new subsection 23 (4a) permits the Minister to recover any cost incurred in selling, disposing of or destroying any improvements made to public lands occupied without authority or where the person responsible for making the improvements refuses or neglects to remove them after authority to occupy the lands has terminated.

SECTION 6. The new section 23a authorizes the Minister to grant relief from forfeiture under subsection 22 (1) and subsection 23 (4) of the Act.

SECTION 7. Section 25 of the Act is amended by adding a subsection that authorizes the Minister to have the material, substance or thing thrown or deposited on public lands in contravention of subsection (1) removed and to recover any cost incurred in so doing.

SECTION 8. The purpose of the rewritten subsections is to permit the Minister to determine whether a Crown grant should be registered under the *Land Titles Act* or the *Registry Act* by removing directions to the Minister as to the office for registration. In many dispositions of public land, for example, shoreline road allowances or Crown reserves, the grantee already holds adjoining land registered under the *Registry Act* and by acquiring a Crown grant registered under the *Land Titles Act*, the grantee holds land with a split registration under both Acts causing hardship to land owners and their lawyers in future dealings with their lands.

SECTION 9. The new section 36a authorizes the Minister to deal with patented lands that have reverted to or become vested in the Crown, in the same manner as public lands that were never patented. Existing easements and the rights of adjoining owners would, however, be preserved.

SECTION 10. Section 37 of the Act prohibits employees of the Ministry from purchasing public lands without prior approval.

The new subsection creates an exception where public lands are purchased for private use and the conditions set out in the subsection are satisfied.

SECTION 11. The section is rewritten to abolish the Public Agricultural Lands Committee and to substitute the Minister in its place to accord with the Ministry's policy objective of increasing the efficiency of processing of applications for public agricultural land.

SECTION 12. The Act prohibits using public lands without authority. Currently, authority is given on a case-by-case basis by contractual agreement. The new section will permit certain common activities to be dealt with by the regulations.

SECTION 13. Section 53 of the Act deals with land sold under Part I of *The Public Lands Act*, being chapter 324 of the Revised Statutes of Ontario, 1960, or located under Part II of that Act.

The effect of the amendment is broadened to include any predecessor of *The Public Lands Act*, being chapter 324 of the Revised Statutes of Ontario, 1960, and any other Act under which public land was sold or located.

SECTION 14. The purpose of the new subsection is to void certain conditions concerning pine timber and cut timber contained in letters patent granting public lands for summer resort locations.

SECTIONS 15 and 17. Subsections 58 (5) and 66 (2) of the Act are rewritten to provide that the fee for certificates will be prescribed by the regulations instead of being set out in the Act.

SECTION 16. Section 63 of the Act deals with reservations in letters patent issued for land that is in a municipality.

The provisions are rewritten to include all land granted by letters patent and not just land that is in a municipality and to enlarge the classes of reservations that a Minister's order may affect to include a right-of-way. The purpose is to permit owners of land affected by the reservations to obtain a Minister's order releasing the reservations. The Minister will be able to treat an allowance along the shore of a lake or river or a right-of-way as a reservation. The fee for the order will be prescribed by regulation and not set out in the Act.

SECTION 18. Section 67 is repealed as it is unnecessary.

SECTION 19. The new section 67a provides for a general penalty section in order to facilitate enforcement of the Act or regulations for which no penalty is now provided.

Bill 203

1987

An Act to amend the Public Lands Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Public Lands Act*, being chapter 413 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

5.—(1) The Minister may appoint such officers to carry out and enforce this Act and the regulations as the Minister considers necessary.

Appointment of officers

(2) Subject to subsection (4), an officer appointed under subsection (1) and any person accompanying that officer and acting under the officer’s instructions may, at all reasonable times and upon producing proper identification, enter and inspect any private land for the purposes of this Act.

Entry upon private land

(3) An officer appointed under section 4 of the *Forest Fires Prevention Act* shall be deemed to be an officer appointed under subsection (1).

Officer appointed under
R.S.O. 1980,
c. 173

(4) An officer or any person accompanying the officer and acting under the officer’s instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier, except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

Search warrant
R.S.O. 1980,
c. 400

2.—(1) Subsection 13 (3) of the said Act is amended by striking out “\$500” in the eighth line and inserting in lieu thereof “\$5,000”.

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

(3a) An officer who finds a building or structure being erected or an improvement being made without the authority of a permit may order that work on the building, structure or improvement cease until a permit is obtained and any person

Per diem penalty

continuing the work or causing the work to be continued in contravention of the order is guilty of an offence and on conviction is, in addition to any fine that may be imposed under subsection (3), liable to a fine of not less than \$200 for each day the work is continued in contravention of the order.

Order to
dismantle
and remove
building, etc.

(3b) Upon conviction of any person of an offence under this section, the court, in addition to the imposition of a fine, may order that person to dismantle and remove any building or structure erected or improvement made in contravention of this section within such time as the court orders and, if the person convicted fails to comply with the order, the Minister may cause the building, structure or improvement to be dismantled and removed and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person convicted.

3. The said Act is amended by adding thereto the following section:

Work permit
for work on
public lands

13a.—(1) Except in accordance with a work permit, no person shall,

- (a) carry on or cause to be carried on any logging, mining or industrial operation on public lands;
- (b) construct or place or cause to be constructed or placed any building, structure or thing on public lands;
- (c) clear any public lands or cause any public lands to be cleared;
- (d) dredge any shore lands or cause any shore lands to be dredged; or
- (e) fill any shore lands or cause any shore lands to be filled.

Conditions
attaching

(2) Every work permit is subject to the conditions set out thereon.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) governing the issuing, renewing and cancelling of work permits;

- (b) governing appeals from a refusal to issue or renew a permit, from a cancellation thereof or in respect of any conditions attaching to a work permit;
- (c) prescribing grounds for refusing to issue or to renew work permits;
- (d) prescribing conditions attaching to work permits and to any exemption from subsection (1);
- (e) prescribing fees payable for work permits or any classes thereof;
- (f) defining “shore lands” for the purpose of clauses 13a(1) (d) and (e); and
- (g) exempting any person or class of person from any provision of subsection (1).

(4) Any regulation may be general or particular in its application. Idem

(5) An officer who finds that there is a contravention of subsection (1) may order that the activity constituting the contravention cease until a work permit authorizing the activity has been obtained and any person continuing the activity or causing the activity to be continued after the order has been made is guilty of an offence and on conviction is, in addition to any fine that may be imposed under subsection (6), liable to a fine of not less than \$200 for each day the activity is continued in contravention of the order. *Per diem penalty*

(6) Every person who contravenes any provision of subsection (1) or of a regulation made under subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Offence

(7) Upon conviction of a person of an offence under this section, the court, in addition to the imposition of a fine, may order that person to, Order to dismantle and remove, etc.

- (a) cease all logging, mining or industrial operations carried on;
- (b) dismantle and remove any building, structure or improvement constructed or placed;
- (c) rehabilitate, in accordance with a plan approved by the Minister, any public lands cleared;

- (d) replace dredged material removed; or
- (e) remove any fill placed,

in contravention of subsection (1), within such time as the court orders and, if the person convicted fails to comply with the order, the Minister may cause to be done anything that the person convicted was ordered to do and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person convicted.

4. Section 16 of the said Act is repealed and the following substituted therefor:

Quit claim
letters
patent

R.S.O. 1980,
c. 240

16.—(1) Where the Minister is satisfied that the right to bring an action on behalf of Her Majesty against a person for the recovery of land is barred by subsection 3 (1) of the *Limitations Act*, the Minister may direct the issue of quit claim letters patent in respect of the land to that person or to that person's predecessor in title if the right of recovery was barred against that predecessor upon such conditions as the Minister considers proper.

Retroactive
effect

(2) Where quit claim letters patent are issued under subsection (1) to a person's predecessor in title, the quit claim letters patent shall specify a date during the period of time that the predecessor held title and the quit claim letters patent shall,

- (a) relate back to the date so specified; and
- (b) have the same effect as if issued at the date so specified.

5. Section 23 of the said Act is amended by adding thereto the following subsection:

Recovery of
cost and
expense

(4a) Any cost or expense incurred in the sale, disposition or destruction of a building or thing referred to in subsection (4) is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person who,

- (a) constructed the building or caused it to be constructed; or
- (b) placed the thing or caused it to be placed on the land.

6. The said Act is further amended by adding thereto the following section:

23a. The Minister may make an order subject to such conditions as the Minister considers proper,

Restoration of rights in forfeited property, etc.

- (a) restoring to a person the right, title or interest in any improvement, building or thing forfeited under subsection 22 (1); or
- (b) declaring that any improvement, building or thing on public lands possessed or occupied without lawful authority is not the property of the Crown notwithstanding subsection 23 (4).

7. Section 25 of the said Act is amended by adding thereto the following subsection:

(2) The Minister may remove or cause to be removed any material, substance or thing thrown or deposited contrary to subsection (1), and any cost or expense incurred thereby is a debt due the Crown and may be recovered by the Minister in a court of competent jurisdiction in an action against the person who threw or deposited the material, substance or thing or caused it to be deposited.

Removal of material, etc.

8. Subsections 36 (2), (3), (4), (5) and (6) of the said Act are repealed and the following substituted therefor:

(2) Where a Crown grant of public lands is made, the Minister shall forward the instrument by which the Crown grant is made, together with a copy thereof, for registration to the land registry office in which the lands are situate.

Crown grants registered in land registry office

(3) Where a release is given under subsection 55 (5) or a grant of mineral rights is made under *The Canada Company's Lands Act, 1922*, the Minister shall forward the instrument by which the release or the Crown grant is made, together with a copy thereof, to the land registrar in whose office the land affected is registered.

Release, grants of minerals registered in land registry offices
1922, c. 24

(4) Upon receipt of an instrument and the copy thereof under subsection (2) or (3), the land registrar shall, without fee or other charge, register the instrument, note particulars of registration on the copy and forward the copy to the grantee at the address furnished by the Ministry.

Registration

9. The said Act is further amended by adding thereto the following section:

Definition

36a.—(1) In this section, “Crown” means Her Majesty the Queen in right of Ontario as represented by the Minister.

Certificate
that land is
public lands

(2) Where the Crown has become the registered owner of land that has been patented or otherwise disposed of or where land has reverted to or become vested in the Crown, the Minister may forward to the proper land registry office a certificate stating that the land is deemed to be public lands.

Registration

(3) The land registrar shall, without fee or charge, register every certificate received under subsection (2).

Effect of
registration

(4) Upon registration of a certificate under subsection (3),

R.S.O. 1980,
cc. 230, 445

(a) the *Land Titles Act* or the *Registry Act*, as the case may be, ceases to apply to the land described in the certificate and the land registrar shall note that fact in the appropriate register or abstract index; and

(b) the land described in the certificate may be granted, sold, leased or otherwise dealt with in the same manner as other public lands.

Easements

(5) Where an easement is appurtenant to land described in a certificate registered under subsection (3), or where the land is subject to an easement, the easement is not affected by registration of the certificate.

Restrictive
covenants

(6) For the purposes of this section, a restrictive covenant running with land is considered to be an easement.

Rights of
adjoining
owners

(7) Where a person having a registered interest in land adjoining land described in a certificate registered under subsection (3) has acquired an interest in the land described in the certificate by possession or by making improvements thereon, the interest so acquired is not affected by registration of the certificate, unless a copy of the certificate is served on the person at least sixty days before registration and no objection to its registration is filed with the land registrar during the sixty-day period.

10. Section 37 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply where a purchase is made of a right, title or interest in public lands for private use at a public auction or where the purchase is made for private use and the purchaser is selected by public draw.

11. Section 43 of the said Act is repealed and the following substituted therefor:

43. The Minister may enter into agreements for the sale or other disposition of land for agricultural purposes to such persons, at such prices or rentals and subject to such conditions as the Minister may determine.

Agreements
for
agricultural
lands

12. The said Act is further amended by adding thereto the following section:

44a. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the fee for any type of authority to use or enter upon public lands and facilities;
- (b) regulating the use of, or the kinds of activities carried on upon, public lands.

13. Section 53 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

53. Where public land was, before the 29th day of March, 1961, sold or located under the authority of any Act, the Minister may direct the issue of letters patent to the purchaser or locatee or any person claiming under or through the purchaser or locatee,

Issue of
letters patent

14. Section 55 of the said Act is amended by adding thereto the following subsection:

(3a) Every condition,

Idem

- (a) prohibiting the cutting of pine timber except for necessary building or clearing with the written permission of the Minister and in default prescribing penalties and exacting prices for cut timber; and
- (b) providing for the manner of disposal of cut timber,

contained in letters patent granting public lands disposed of under any Act for a summer resort location is void.

15. Subsection 58 (5) of the said Act is repealed and the following substituted therefor:

Fee for
certificate

(5) An applicant for a certificate under subsection (4) shall pay the fee prescribed therefor by the regulations.

16. Section 63 of the said Act is repealed and the following substituted therefor:

Release
of road
reservations

63.—(1) Where letters patent have been issued for land in respect of which there is a reservation referred to in section 62 and the Minister is of the opinion that the present and future needs of the locality as to roads are adequately provided for, the Minister shall, upon the owner of the affected land applying therefor and paying the fee prescribed therefor by the regulations, make an order releasing the land or any part thereof from the reservation.

Release of
reservation

(2) Where the Minister is of the opinion that a reservation in letters patent reserving,

(a) the right of access to the shores of rivers, streams and lakes for vessels, boats and persons; or

(b) a right-of-way,

does not serve a useful purpose and is not required in the public interest and the owner of the land affected applies for a release from the reservation and pays the fee prescribed therefor by the regulations, the Minister shall make an order releasing the land or any part thereof from the reservation.

Power to
determine
reservation

(3) Where letters patent have been issued reserving or excepting an allowance along the shore of a lake or river or a right-of-way, the Minister may treat the reservation or exception as a reservation referred to in subsection (1) or (2) in which event the Minister may issue the order that the Minister could issue under subsection (1) or (2).

Effect of
order

(4) An order made under this section releases the land described in the order from the reservation referred to in the order and may be registered in the proper land registry office.

17. Subsection 66 (2) of the said Act is repealed and the following substituted therefor:

Fee for
certificate

(2) An applicant for a certificate under subsection (1) shall pay the fee prescribed therefor by the regulations.

18. Section 67 of the said Act is repealed.

19. The said Act is further amended by adding thereto the following section:

67a. Except where otherwise provided, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Penalty not otherwise provided for

20. This Act comes into force on the day it receives Royal Assent. Commence-
ment

21. The short title of this Act is the *Public Lands Amendment Act, 1987*. Short title

Bill 204

An Act to amend the Municipal Act and the Education Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to allow counties in the Province of Ontario to apply to the Minister of Revenue for the reassessment of all real property in the county on the same market value basis. A reassessment shall not be undertaken unless the council of the county and the councils of a majority of the local municipalities in the county agree to the reassessment.

The Bill would also alter the method by which school boards and the county requisition the amounts necessary for their purposes from the local municipalities. To accomplish this purpose it is also necessary to amend the *Education Act*.

Bill 204

1987

An Act to amend the Municipal Act and the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 365 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(6a) A county for which a reassessment has been carried out under section 368b shall, in its by-law under subsection (6), specify and determine the rates to be levied by each municipality for purposes of raising the amount it is required to provide and shall direct each municipality to levy those rates.

Where
reassessment
carried out

2. The said Act is amended by adding thereto the following sections:

368a. In sections 368b to 368l,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“lower tier municipality” means a town, village or township in a county, but excludes a separated town or separated township;

R.S.O. 1980,
c. 129

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

(a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and

(b) the commercial assessment.

Interpretation

368b.—(1) For the purposes of this section, subsection 368c (1) and section 368d, “county” includes any cities, separated towns and separated townships situate in the county.

County-wide
reassessment

(2) If the Minister of Revenue considers that, within any class or classes of real property within a county, any parcel or parcels of real property is assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each local municipality as will, in the Minister’s opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

(a) prescribing the classes of real property into which all the real property in the county shall be divided for the purpose of this subsection;

(b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the county;

- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the county, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall
 - alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(3) Except as provided in subsection (7), the Minister of Revenue shall not make a direction under subsection (2) unless, Resolution required

- (a) the council of the county; and
- (b) the councils of a majority of the local municipalities in the county,

have requested by resolution that a direction be made.

(4) If the assessment roll of a local municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (2), Application of new assessment roll

- (a) the assessment roll to be returned for that local municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year.

R.S.O. 1980,
c. 31

(5) Notwithstanding subsection (4), where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property. Exception

(6) For the purpose of every Act, the assessment roll of a local municipality returned under subsection (4) shall be deemed to be the assessment roll of the local municipality returned under the *Assessment Act*. Status of assessment roll

R.S.O. 1980,
c. 31

Mandatory
return of
updated roll
every fourth
year

(7) In every fourth year following the most recent direction under subsection (2), the Minister of Revenue shall make a direction under subsection (2) for changes to be made to the assessment roll of each local municipality.

Provisions
of
R.S.O. 1980,
c. 31

(8) Except as provided in subsections (2) and (7), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Idem

(9) Where a direction has been made under subsection (2) in respect of the assessment roll of a local municipality for purposes of taxation in any year subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to that municipality or to the assessment roll of that local municipality in respect of that year and all subsequent years.

Powers on
appeal

(10) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (2)

(11) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the county under subsection (2), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (2) for the county is not similar to real property described in another class prescribed under subsection (2) for the county, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

No
amendment
to collector's
roll
R.S.O. 1980,
c. 31

(12) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (2) is at least in the

sum of \$5,000 at market value or, if the assessment in the county is at less than market value, at an equivalent rate.

(13) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of a local municipality under a direction of the Minister of Revenue under subsection (2) shall be deemed to be a reassessment of all property within that local municipality under subsection 63 (3) of the *Assessment Act*.

Table of rates for pipe lines
R.S.O. 1980, c. 31

(14) Nothing in section 368d, 368e or 368f in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of appeal preserved

(15) A regulation made under subsection (2) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations may be retroactive

368c.—(1) Sections 368d to 368l apply only if a different assessment of lands in each local municipality in the county has been instituted pursuant to a direction of the Minister of Revenue under subsection 368b (2).

Different assessment generally throughout the county

(2) The Lieutenant Governor in Council may, in respect of a county where a reassessment has been carried out under section 368b, in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsection 365 (6).

Alternative basis of apportionment

R.S.O. 1980, c. 359

(3) A basis of apportionment prescribed for a county by the Lieutenant Governor in Council under subsection (2) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for that county under subsection 9a (1) if the county had not been subject to a reassessment under section 368b.

Deeming provision

(4) Subsections 365 (1) to (5) and (8) to (12) and (16) to (19) and sections 366 and 368 do not apply to a county mentioned in subsection (2) and such a county shall apportion the sums required for its purposes in accordance with the alternative basis prescribed under subsection (2) and not in accordance with the basis for apportionment set out in section 365.

County apportionment provision not applicable

(5) Notwithstanding subsection 216 (2) of the *Education Act*, where the amount levied by a local municipality for county purposes or school purposes in the year prior to the

Adjustment of levies
R.S.O. 1980, c. 129

year for which a change in assessment is made pursuant to a direction of the Minister of Revenue under subsection 368b (2), differs from the sum the local municipality ought to have levied for county purposes or school purposes, the local municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in the next succeeding year.

Determin-
ation of
school rates

368d.—(1) In each year, each public school board and separate school board having jurisdiction in part or all of the county shall determine the rates to be levied by the applicable local municipalities in the county to provide the sums required for elementary and secondary school purposes in that year and shall specify the amount that is to be provided in that year by the application of those rates within each such local municipality in the county.

Idem
R.S.O. 1980,
c. 129

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Direction
to local
municipality

(3) On or before the 1st day of March in each year, the school boards mentioned in subsection (1) shall direct the council of each applicable local municipality in the county to levy the rates determined by the board under subsection (1) and shall advise the local municipality of the amounts of money to be raised by levying those rates in the local municipality.

Local
municipality
to levy and
collect

(4) In each year, the council of a local municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the local municipality rateable for public school board or separate school board purposes, as may be appropriate.

Full value
to be used

(5) The full value of all applicable rateable property shall be used in determining,

- (a) the weighted assessment for each local municipality for purposes of apportioning among the applicable local municipalities within the county the sums required for school purposes by each public school board and separate school board;
- (b) the rates mentioned in subsection (1); and
- (c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*,

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in section 368a of this Act and not as defined in section 220 of that Act.

Definitions
in
R.S.O. 1980,
c. 129, s. 220

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Non-
application
of
R.S.O. 1980,
c. 129,
subs. 219 (2)

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in all or part of the county.

Application
of
R.S.O. 1980,
c. 129

368e.—(1) In each year, the council of each lower tier municipality in a county shall levy, in accordance with the rating by-laws passed by the council of the county for that year under subsection 365 (6), separate rates on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

Lower tier
municipality
to adopt
county rates

(2) The full value of all rateable property shall be used in determining the assessment on which a levy shall be made under subsection (1), and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

Full value
to be used

R.S.O. 1980,
c. 31

368f.—(1) In this section,

Definitions

“local municipality levy” means the amount required for local municipality purposes under section 164 including the sums required for any board, commission or other body, but excluding those amounts required to be raised for county and school purposes;

“special local municipality levy” means an amount to be raised by a local municipality that is not included in the local municipality levy, but excluding those amounts required to be raised for county and school purposes.

(2) The council of each local municipality shall, in each year in accordance with subsections (3) and (4), levy separate rates on the whole of the rateable commercial assessment and

Local
municipality
levies

on the whole of the rateable residential and farm assessment in respect of the local municipality levy and the special local municipality levy.

Determin-
ation of
commercial
mill rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the local municipality, in the case of a local municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special local municipality levy, in the case of a special local municipality levy.

Determin-
ation of
residential
mill rates

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-
application
of
R.S.O. 1980,
c. 359, s. 7

(5) Section 158 of this Act and section 7 of the *Ontario Unconditional Grants Act* do not apply to a local municipality to which this section applies.

Local
municipality
levy

(6) A reference in any other section of this Act or in any other Act to a levy by a local municipality under section 158 of this Act or section 7 of the *Ontario Unconditional Grants Act* shall, with respect to a local municipality to which this section applies, be deemed to be a reference to a levy under this section or under section 368e, as the case may be.

Tax exempt
real property

(7) The assessment for real property that is exempt from taxation for local municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of a local municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim
financing,
local
municipalities

368g.—(1) The council of a local municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the local municipality.

By-law in
December
of preceding
year

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it

does not come into force until a specified day in the following year.

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year. Determination of rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year. Assessment roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on the assessment for that year under sections 368d, 368e and 368f. Interim levy deducted from final levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 368d, 368e and 368f, the treasurer of the local municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 368d, 368e and 368f. Interim levy in excess of final levy

368h. Where a direction has been made under subsection 368b (2) that a new assessment roll be returned for taxation in the current year, the Minister may by order, Power of Minister

- (a) prescribe the maximum rates that may be levied by the council of each local municipality under subsection 368g (1); and
- (b) extend the time for the council of the county to pass its rating by-law under subsection 365 (6) notwithstanding that the time limit set out therein has expired.

368i.—(1) In this section, Definitions

“payment in lieu of taxes” means an amount that a local municipality is eligible to receive under,

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*, R.S.O. 1980, c. 31
- (b) subsection 7 (6) of the *Housing Development Act*, but not including that portion payable to a school R.S.O. 1980, c. 209

board in accordance with subsection 7 (10) of that Act,

(c) section 160 and subsection 160a (3) of this Act,

R.S.O. 1980, c. 311 (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,

R.S.O. 1980, c. 361 (e) section 42 of the *Ontario Water Resources Act*,

R.S.O. 1980, c. 384 (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,

R.S.O. 1980, c. 510 (g) section 10 or 11 of the *Trees Act*,

1980-81-82-83, c. 37 (Can.) (h) the *Municipal Grants Act, 1980* (Canada), or

(i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in section 498;

“taxes for county purposes” means the taxes levied by a lower tier municipality for county purposes as specified in a rating by-law under section 368e, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980, c. 31

“taxes for local purposes” means the taxes levied by a lower tier municipality for local purposes under subsection 368f (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“total taxes for all purposes” means the sum of the amounts levied by a lower tier municipality under sections 368d, 368e and 368f, excluding any adjustments under section 32 or 33 of the *Assessment Act*.

R.S.O. 1980, c. 31

Lower tier municipality to share payment in lieu of taxes

(2) Where a lower tier municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the county a portion equal to the amount obtained by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total of,

(a) the taxes for local purposes for the year; and

(b) the taxes for county purposes for the year.

(3) Notwithstanding subsection (2), if a lower tier municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of
certain
payments

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

(b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,
c. 361

(c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including the portion payable to a school board in accordance with subsection 46 (9) of that Act;

R.S.O. 1980,
c. 384

(d) section 10 or 11 of the *Trees Act*; or

R.S.O. 1980,
c. 510

(e) the *Municipal Grants Act, 1980* (Canada),

1980-81-82-
83, c. 37
(Can.)

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each lower tier municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county showing an estimate of the amount that the lower tier municipality will be required to pay to the county for the year under subsection (2).

Treasurer
to provide
estimate of
share

(5) Where a local municipality is required to pay a portion of a payment in lieu of taxes to the county under subsection (2), or to a school board, the provisions of,

Allocation
of payments
in lieu of
taxes

(a) subsections 26 (7) and (9) of the *Assessment Act*;

R.S.O. 1980,
c. 31

(b) subsection 7 (10) of the *Housing Development Act*;

R.S.O. 1980,
c. 209

(c) subsections 160 (12) and (16) and subsection 160a (4) of this Act; and

(d) subsection 46 (7) of the *Power Corporation Act*,

R.S.O. 1980,
c. 384

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of
portion of
telephone
and
telegraph tax

368j.—(1) Each lower tier municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the county and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Idem

(2) Each city, separated town and separated township shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each public school board bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of
taxes added
to collector's
roll
R.S.O. 1980,
c. 31

(3) In determining the taxes levied on commercial assessment for the purposes of subsection (1) or (2), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement
by treasurer

(4) The treasurer of each local municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and the appropriate public school boards showing an estimate of the amount which the local municipality will be required to pay to that body for the year under subsection (1) or (2).

Non-
application

(5) Subsections 161 (18) to (24) do not apply to a local municipality to which this section applies.

Payment of
payments in
lieu and
telephone
and telegraph
levies

368k.—(1) An amount payable by a local municipality to the county under subsection 368i (2) or to the county or a public school board under subsection 368j (1) or (2) is a debt of the local municipality to the county or school board, as the case may be, and, subject to subsection (2), instalments are payable in each year on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.

4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The council of the county or the school boards having jurisdiction in all or part of the county may, by agreement each year with a majority of the local municipalities within the county that represent at least two-thirds of the total weighted assessment for all of the local municipalities within the county, provide for an alternative number of instalments and due dates thereof other than those provided in subsection (1) which shall be applicable to all the local municipalities in the county.

Alternative
payment
schedule

(3) An amount payable by a local municipality under subsection 368i (2) or subsection 368j (1) or (2), shall be credited by the county or school board to its general revenues.

General
revenues

(4) If a local municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2), the local municipality shall pay to the county or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or county may by by-law determine from time to time.

Default

(5) Where the total amount paid for the year under subsection (1) exceeds the total amount payable for the year under subsections 368i (2), 368j (1) and (2), the local municipality shall notify the county or the school board, as the case may be, of the amount of the overpayment and the county or school board shall forthwith pay that amount to the local municipality.

Overpayment

(6) On or before the 31st day of December in each year, the treasurer of each local municipality shall deliver to the bodies entitled to a payment under subsection 368i (2) or subsection 368j (1) or (2), a statement sufficient to enable the body to determine the correctness of the amount payable in the year.

Treasurer's
statement

(7) Notwithstanding subsection (1), in the first year of an initial reassessment under subsection 368b (2), the instalments payable under paragraphs 1, 2 and 3 of subsection (1) shall each be equal to 25 per cent of the amounts estimated under subsections 368i (4) and 368j (4).

Transitional

368L.—(1) Where changes are made in the assessment rolls of local municipalities under a direction of the Minister of Revenue under subsection 368b (2) and the changes directly affect the relative cost sharing of conservation author-

Conservation
authority
apportion-
ments

ity responsibilities for any municipality beyond the county or cause within the county substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council may, in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

Regulation
may be
retroactive

(2) A regulation made under subsection (2) may be made retroactive to a date not earlier than the 1st day of January of the year in which it is made.

2.—(1) Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-
application

(10) This section does not apply to the Sudbury District Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

R.S.O. 1980,
c. 302

(2) Subsection 214 (6) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-
application

(6) Subsections (3) and (5) do not apply to an area municipality in The Regional Municipality of Sudbury or to a local municipality in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

(3) The said Act is amended by adding thereto the following section:

Regulations
for separate
school board
apportionment

214b.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a separate school board to which this section applies among the local municipalities or parts thereof that are situate wholly or partly within its area of jurisdiction.

Application
of section

(2) This section applies to those separate school boards having jurisdiction wholly or partly within and partly outside a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

R.S.O. 1980,
c. 302

Application
of regulation

(3) In any year in which a regulation made under subsection (1) is in force, the sums mentioned in that subsection shall be apportioned among the local municipalities or parts thereof in accordance with the regulation.

(4) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or underpayment by a local municipality or part thereof, other than a local municipality situate in a county where a reassessment has been carried out under section 368b of the *Municipal Act*, determined on the basis of actual data, shall be adjusted in the levy for the following year.

Where
estimated
data used

R.S.O. 1980,
c. 302

(4) Subsection 222 (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(4) Subsection (2) does not apply to an area municipality in The Regional Municipality of Sudbury or a local municipality in a county where a reassessment has been carried out under section 368b of the *Municipal Act*.

Non-
application

(5) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

225. In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *Regional Municipality of Sudbury Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

Conflict

R.S.O. 1980,
cc. 441, 302

3. Nothing in this Act affects the validity of an interim levy made in the year 1987 under section 159 of the *Municipal Act* prior to the coming into force of this Act by a local municipality in a county where a reassessment has been carried out under section 368b in the year 1987 and subsections 368g (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to any such interim levy.

Transition
R.S.O. 1980,
c. 302

4. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Commence-
ment

5. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Short title

Bill 205

An Act to amend the Residential Rent Regulation Act, 1986

Ms Bryden



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to amend the exemption provision in clause 4 (3) (a) of the Act in order to eliminate the exemption for buildings operated or administered but not owned by the Government of Canada or any agency thereof.

Bill 205**1987**

**An Act to amend the
Residential Rent Regulation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 4 (3) (a) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is repealed and the following substituted therefor:

- (a) a rental unit situate in a residential complex owned by the Government of Canada or owned, operated or administered by or on behalf of the Government of Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1987*. Short title

Bill 206

An Act to amend certain Acts respecting Regional Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends the ten Acts that govern regional municipalities.

Paragraph 1 describes amendments that are common to all ten of the regional municipalities.

Paragraphs 2 to 4 describe amendments related only to the regional municipalities named in the particular paragraphs.

1. All Regional Municipalities

Subsections 1 (1), 2 (2), 3 (3), 4 (4), 5 (1), 6 (1), 7 (2), 8 (1), 9 (1) and 10 (1). It is proposed that each Regional Council be given the power to establish, maintain and operate or discontinue fluoridation systems. The *Fluoridation Act* will cease to apply to the area municipalities.

Subsections 1 (2), 2 (1), 3 (2), 4 (3), 5 (3), 6 (2), 7 (1), 8 (3), 9 (2) and 10 (2). A provision made obsolete by the repeal of the *Juvenile Delinquents Act* (Canada) is repealed.

Subsections 1 (3), 2 (3), 3 (4), 4 (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3). The proposed amendments adopt two provisions of the *Municipal Act* and makes them applicable to Regional Councils. Section 78a of the *Municipal Act* deals with transfers and storage of documents. Section 78b of that Act allows certified copies of documents to be received in evidence in any court or tribunal instead of the original.

Subsections 1 (4), 2 (4), 3 (5), 4 (6), 5 (5), clause 6 (6) (a), subsections 7 (4), 8 (5), 9 (4) and 10 (4). The proposed amendment would make section 112 of the *Municipal Act* applicable to Regional Councils. This section prohibits bonuses being paid by the Regional Council to any business.

2. Regional Municipalities of Halton, Niagara and Sudbury

Subsections 3 (1), 5 (2) and 8 (2). The proposed amendment would authorize the Regional Council to use undisbursed interest accumulated on the trust accounts of residents of the Regional homes for the aged for the general benefit of residents of those homes for the aged.

3. Regional Municipality of Hamilton-Wentworth

Subsection 4 (1). The proposed section would permit the Regional Corporation to enter into agreements with the owners or lessees of land abutting a highway under the jurisdiction of the Regional Corporation for various purposes.

Subsection 4 (2). Subsection 79 (2) of the Act which relates to hospital board appointments by Regional Council is repealed.

4. Regional Municipality of Ottawa-Carleton

Subsections 6 (3, 4). These subsections would authorize the Regional Council to establish Day Care Service Areas and to allocate the costs to the participating area municipalities.

Clause 6 (6) (b). The Regional Council, by the adoption of paragraph 55 of section 208 of the *Municipal Act*, would have the power to establish and operate municipal parking lots.

Subsection 6 (7). This subsection would authorize the Regional Council to enter into agreements to provide for the establishment and operation of a centralized communication system.

Bill 206

1987

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

REGIONAL MUNICIPALITY OF DURHAM

1.—(1) The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

52a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation
of water
supply
in area

(2) Section 90 of the said Act is repealed.

(3) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 129 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

2.—(1) Section 64 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation
of water
supply
in area

74a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(3) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 111 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALTON

3.—(1) The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Trust fund
disbursement

71a. The trust fund, composed of undisbursed interest accumulated prior to the 2nd day of November, 1980, on the trust accounts of residents of the Regional Municipality of Halton Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Halton Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(2) Section 75 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

85a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*. Fluoridation system
R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation of fluoridation of water supply in area

(4) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 122 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

4.—(1) The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

39a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed. Agreements respecting highways

(2) An agreement made under subsection (1) that affects a highway or a highway right of way that is a connecting link, within the meaning of section 21 of the *Public Transportation Act*, Approval of agreement
R.S.O. 1980,
c. 421

and *Highway Improvement Act* shall have no effect until approved by the Minister of Transportation and Communications.

(2) Subsection 79 (2) of the said Act is repealed.

(3) Section 86 of the said Act is repealed.

(4) The said Act is further amended by adding thereto the following section:

Fluoridation
system
R.S.O. 1980,
c. 171

96a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Continuation
of fluoridation
of water
supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(5) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 133 (1) is further amended by inserting after “110” in the second line “112”.

REGIONAL MUNICIPALITY OF NIAGARA

5.—(1) Subsections 31 (2) and (3) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Fluoridation
system
R.S.O. 1980,
c. 171

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(3) The *Fluoridation Act* does not apply to any area municipality.

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations
R.S.O. 1980,
c. 171

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluoridation
of water supply
in area

(2) The said Act is amended by adding thereto the following section:

110a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1984, on the trust accounts of residents of the Regional Municipality of Niagara Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Niagara Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

Trust fund
disbursement

(3) Section 112 of the said Act is repealed.

(4) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31, is amended by inserting after "5" in the first line "78a, 78b".

(5) The said subsection 161 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

6.—(1) The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

31a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be

Regulations

deemed to be a fluoridation system established under that Act.

Continuation
of fluori-
dation
of water
supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 113 of the said Act is repealed.

(3) Subsection 115 (2) of the said Act is amended by inserting after “and” in the third line “subject to section 115a”.

(4) The said Act is further amended by adding thereto the following section:

Day Care
Service Areas

115a.—(1) The Regional Council may, upon the request of one or more area municipalities, pass a by-law designating those municipalities as a Day Care Service Area and may pass such additional by-laws to alter the composition of the Day Care Service Area, including the elimination of any part, as may be necessary to comply with the requests of the area municipalities.

Levies for
Day Care
Service Areas

(2) The Regional Council in each year shall levy against the area municipalities situate within the Day Care Service Area a sum sufficient to meet the costs, as estimated by the Regional Council, of providing day care services in the Day Care Service Area and Part IX applies with necessary modifications to a levy made under this section as though it were a levy made by the Regional Council under subsection 121 (1).

(5) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 163 (1) is further amended by,

(a) inserting after “106” in the first line “112”; and

(b) striking out “and 54” in the third line and inserting in lieu thereof “54 and 55”.

(7) The said Act is further amended by adding thereto the following section:

Centralized
communi-
cation
system

165a.—(1) The Regional Council may pass by-laws and enter into agreements to provide for the establishment and operation of a centralized communication system either alone

or in concert with the area municipalities and their local boards for the provision of emergency response services in the Regional Area.

(2) The area municipalities and their local boards may enter into agreements under subsection (1) with the Regional Council. Agreements

REGIONAL MUNICIPALITY OF PEEL

7.—(1) Section 70 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

80a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*. Fluoridation system
R.S.O. 1980, c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-application

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation of fluoridation of water supply in area

(3) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 117 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF SUDBURY

8.—(1) The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation
of water
supply
in area

Trust fund
disbursement

25a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) The said Act is further amended by adding thereto the following section:

33a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of November, 1984, on the trust accounts of residents of the Regional Municipality of Sudbury Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Sudbury Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(3) Section 35 of the said Act is repealed.

(4) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 103 (1) is further amended by inserting after “106” in the first line “112”.

REGIONAL MUNICIPALITY OF WATERLOO

9.—(1) Subsection 30 (2) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluoridation
of water
supply
in area

(2) Section 105 of the said Act is repealed.

(3) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 151 (1) is further amended by inserting after "110" in the first line "112".

REGIONAL MUNICIPALITY OF YORK

10.—(1) Subsection 31 (2) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue a fluoridation system, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, a fluoridation system established under this section shall be deemed to be a fluoridation system established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluoridation
of water
supply
in area

(2) Section 107 of the said Act is repealed.

(3) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 153 (1) is further amended by inserting after “110” in the first line “112”.

Commence-
ment

11.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1 (3), 2 (3), 3 (4), 4 (2) and (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Regional Municipalities Amendment Act, 1987*.

Bill 207

An Act to amend the District Municipality of Muskoka Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Section 51 of the *District Municipality of Muskoka Act* now reads as follows:

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the Planning Act, 1983.

Under the Act, the responsibility for the preparation and adoption of an official plan for the District Area is vested in the District Council. The effect of the re-enactment of section 51 is to vest in each area municipality responsibility for its own official plan; those parts of the District Area official plan that now apply specifically to an area municipality will become that municipality's official plan.

The District Area official plan, except for the amendments thereto that apply specifically to an area municipality, continues as the official plan for the Area. Amendments to the District Area official plan in process when the re-enacted section 51 comes into force will continue to be dealt with, and when approved, will be allocated, if appropriate, to one or more of the area municipalities' official plans.

Bill 207

1987

An Act to amend the District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 51 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 12, is repealed and the following substituted therefor:

51.—(1) In this section, “District Plan” means the official plan of the District Area. Definition

(2) Amendments numbered 34, 41, 55 and 56 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Bracebridge, become the official plan of the Town of Bracebridge. Official plan,
Town of
Bracebridge

(3) Amendment numbered 15 to the District Plan is hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Georgian Bay, become the official plan of the Township of Georgian Bay. Official plan,
Township of
Georgian
Bay

(4) Amendment numbered 13 as approved and amendments numbered 10, 18, 22, 36 and 54 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Gravenhurst, become the official plan of the Town of Gravenhurst. Official plan,
Town of
Gravenhurst

(5) Amendments numbered 1, 9, 14, 21, 23, 24, 25, 26, 30, 32, 33, 39, 42, 44 and 45 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Huntsville, become the official plan of the Town of Huntsville. Official plan,
Town of
Huntsville

Official plan,
Township of
Lake of Bays

(6) Amendments numbered 3, 11, 23 and 28 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Lake of Bays, become the official plan of the Township of Lake of Bays.

Official plan,
Township of
Muskoka
Lakes

(7) Amendments numbered 2, 12, 19 and 40 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Muskoka Lakes, become the official plan of the Township of Muskoka Lakes.

District
Plan

(8) Amendments numbered 27 and 47 to the District Plan continue to form part of the District Plan while also becoming part of the official plans of each of the area municipalities as provided for in subsections (2) to (7).

Processing of
District Plan
amendments

(9) Where an amendment to the District Plan has been submitted to the Minister for approval and the amendment or a part thereof is not approved before the coming into force of this section, the Minister or the Municipal Board, on a referral thereto, may, without any further requirement, continue to deal with the amendment or the part thereof under the provisions of the *Planning Act, 1983* and in so doing, may allocate the amendment or the part thereof to form part of such official plan as is considered appropriate.

1983, c. 1

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1987*.

Bill 208

An Act to amend the Planning Act, 1983

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTIONS 1 and 2. The addition of the proposed subsection 4 (2a) and the amendment to subsection 5 (2) of the Act will ensure that when the Minister's consent-granting authority has been delegated, the same provisions will apply to the exercise of that authority as apply to municipal councils and delegates thereof.

SECTION 3.—Subsection 1. Subsections 17 (14) to (17) of the Act now read as follows:

(14) The parties to a referral are the person or other body, if any, that requested the referral, the municipality and any person or other body added as a party by the Municipal Board.

(15) The Municipal Board may add as a party to the referral any person, including the Minister or other body who applies to the Board to be added as a party.

(16) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

(17) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons or bodies as the Board considers appropriate.

As re-enacted, subsection 17 (14) will permit the Municipal Board to, in effect, establish the parties on a reference to the Board in respect of an official plan.

Subsection 2. Subsection 17 (19) of the Act provides that where an official plan is before the Municipal Board on a reference, the Minister of Municipal Affairs may advise the Board by a notice in writing that a matter of provincial interest is adversely affected by the plan or part thereof, and thereupon the decision of the Board on that part of the plan identified in the notice is not binding unless confirmed by the Lieutenant Governor in Council. The amendment will permit the Minister to give the notice whenever a provincial interest is affected, whether adversely or beneficially.

SECTION 4. Subsection 20 (1) of the Act now reads as follows:

(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister.

The requirement that copies of the plan be lodged in the office of the Minister has been found to be unnecessary and is deleted.

SECTIONS 5, 6 and 7. These amendments are to the same effect as that set out in subsection 3 (2) of the Bill and are in respect of amendments to an official plan.

SECTION 8.—Subsection 1. Subsection 24 (2) of the Act permits the council of a municipality that has adopted an amendment to an official plan to pass a by-law that doesn't conform with the plan but will conform if the amendment is approved. As re-enacted, the subsection takes into account the fact that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

Subsection 2. Subsection 24 (4) of the Act provides that where a zoning by-law is not appealed or if appealed the appeal is dismissed or if the by-law is amended as directed on the appeal, then the by-law is deemed to be in conformity with an official plan that is in effect in the municipality. Clause 24 (4) (b), as re-enacted, recognizes that under subsection 34 (27) the Municipal Board on an appeal may itself amend the by-law rather than direct the council of the municipality to do so.

SECTION 9. Subsections 28 (6) and (7) of the Act confer certain powers on a municipality for the purpose of carrying out a community improvement plan, the exercise of which could contravene the restrictions on the granting by a municipal council of assistance to business or commercial enterprises set out in subsection 112 (1) of the *Municipal Act*. Subsection 112 (2) of that Act creates an exception where the council is exercising any of its powers or authority under subsection 28 (6) or (7) of the *Planning Act, 1983* with the approval of the Minister of Municipal Affairs. The proposed new subsection 28 (7a) of the *Planning Act, 1983* explicitly authorizes the Minister to approve the exercise of such power in order that the exception may apply.

SECTION 10.—Subsection 1. Subsection 33 (7) of the Act enables the council of a municipality to attach conditions to a demolition permit for residential property; the new subsection (7a) permits registration of notice of any conditions imposed against the land to which the permit applies.

Subsection 2. Subsection 33 (10) of the Act now permits any person who has obtained a demolition permit under subsection 33 (6) to apply to council for relief from the conditions attached to the demolition permit; under subsection (10), as re-enacted, such an application may be made by a person who has subsequently become the owner of the permit.

New subsection (10a) permits council to extend the time for making an application for relief under subsection (10).

SECTION 11.—Subsection 1. Subsections 34 (12) and (13) of the Act set out certain requirements to be met by a municipal council before passing a zoning by-law and now read as follows:

(12) Before passing a by-law under this section, the council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed, for the purpose of informing the public in respect of the proposed by-law.

(13) The meeting mentioned in subsection (12) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed by-law.

The re-enactment of subsection (12) makes it clear those requirements do not apply when the by-law is passed on the direction of the Municipal Board following an appeal to it and is rephrased to indicate more accurately the type of information that is to be made available to the public.

The re-enactment of subsection (13) reduces from thirty to twenty days the minimum period of time that must elapse between the giving of the notice and the holding of the meeting.

Subsection 2. The re-enactment of subsection 34 (15) of the Act requires council to forward the information to boards, commissions and other agencies that may have an interest in the matter not less than twenty days before passing the by-law.

New subsection (15a) permits such a board, etc., to require up to an additional ten days to submit comments on the zoning proposal.

Subsection 3. The re-enactment of subsections 34 (17) and (18) and the enactment of new subsection 34 (18a) vary the time within which an appeal of a zoning by-law may be brought. The appeal period will commence to run from the day notice of the passing of the by-law is given rather than from the day the by-law is passed and the effect is to shorten the appeal period when a municipality is prompt in giving notice of the passing of the by-law.

Subsection 4. The re-enactment of subsection 34 (22) of the Act is to the same effect as that set out in subsection 3 (1) of the Bill in relation to the power of the Municipal Board to establish the parties on an appeal to the Board in respect of a zoning by-law.

Subsection 5. The amendment is similar in intent to that set out in subsection 3 (2) of the Bill and refers to a matter of provincial interest affected by a zoning by-law.

SECTION 12. Subsection 35 (2) of the Act provides that a zoning by-law of a local municipality shall not include a “holding provision” unless its official plan contains provisions relating to that concept. As re-enacted, the subsection recognizes that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

SECTION 13. The re-enactment of subsection 36 (2) of the Act is to the same intent as the amendment set out in section 12 of the Bill and refers to increased density provisions in a zoning by-law.

SECTION 14. The paragraph added to clause 40 (8) (a) of the Act empowers an upper-tier municipality to require matters relating to drainage to be provided to its satisfaction in connection with site plan control approvals.

SECTION 15. The re-enactment of subsection 41 (4) of the Act is to the same effect as that set out in sections 12 and 13 of the Bill and refers to a requirement as a condition of development or redevelopment of land that land be conveyed to a municipality for park purposes at a rate of not more than one hectare for each 300 dwelling units proposed.

SECTION 16. These amendments make consistent the appeal procedures on minor variance decisions under section 44 with those that apply to consent decisions under section 52.

SECTION 17. The amendment is similar to that set out in subsections 3 (2) and 11 (5) of the Bill and refers to a matter of provincial interest that is affected by a proposed revocation or amendment of a zoning or subdivision control order made by the Minister under subsection 46 (1) of the Act.

SECTION 18. The amendment is complementary to those set out in sections 1 and 2 of the Bill to ensure that the same provisions will apply in the exercise of the Minister’s delegated consent-granting authority.

SECTION 19.—Subsection 1. Subsection 52 (7) of the Act describes who is entitled to appeal a decision on an application for a consent and is set out below, showing underlined the words to be added by the amendment:

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the Ontario Municipal Board Act.

The amendment is intended to make it clear that whoever is sent a notice of the decision is entitled to appeal it, including a body who had delegated the authority to grant the consent.

Subsection 2. Subsection 52 (20) of the Act provides that where conditions imposed on the granting of a consent are not fulfilled within one year of the granting of the consent, the application for the consent shall be deemed to be refused; the words added by the amendment provide that where there has been an appeal or reference to the Municipal

Board, the one-year period does not commence to run until the date of the Board's order on the appeal or referral.

SECTION 20. Subsection 56 (1) of the Act permits the validation by order of the Minister of conveyances of land made before the 19th day of March, 1973, that contravened the subdivision control provisions of the Act. The re-enactment permits such validation whether the contravention occurred before or after the 19th day of March, 1973.

SECTION 21. Under the Act, planning boards may charge fees only when planning functions have been assigned to them by the Minister. The re-enactment of subsections 68 (1) and (2) will permit planning boards to charge fees in respect of any of their planning functions.

SECTION 22. Complementary to section 21 of the Bill.

Bill 208

1987

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsection:

(2a) Despite subsections (1) and (2), where the Minister has delegated the authority of the Minister for the granting of consents under section 52, the provisions of subsections 52 (2) to (9) and (15) to (22) apply, with necessary modifications and the provisions of subsections 52 (10) to (14) do not apply, in the exercise of that authority.

Where
authority to
grant
consents
delegated

2. Subsection 5 (2) of the said Act is amended by striking out “and the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications in the exercise of that authority” in the seventh, eighth and ninth lines.

3.—(1) Subsections 17 (14), (15), (16) and (17) of the said Act are repealed and the following substituted therefor:

(14) On a referral to the Municipal Board, the Board shall hold a hearing, of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

Hearing
and notice
thereof

(2) Subsection 17 (19) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

4. Subsection 20 (1) of the said Act is repealed and the following substituted therefor:

(1) A certified copy of the official plan shall be lodged in the office of the clerk of each municipality to which the plan, or any part of the plan, applies.

Lodging
of plan

5. Subsection 21 (2) of the said Act is amended by striking out “adversely” in the second line.

6. Subsection 22 (5) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

7. Subsection 23 (1) of the said Act is amended by striking out “adversely” in the third line.

8.—(1) Subsection 24 (2) of the said Act is repealed and the following substituted therefor:

Validity of
by-laws
conforming
with
amendments
to plans

(2) Where a council has adopted an amendment to an official plan, the council of any municipality to which the plan or any part of the plan applies may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(2) Clause 24 (4) (b) of the said Act is repealed and the following substituted therefor:

(b) an appeal is taken and the appeal is dismissed or the by-law is amended by the Municipal Board or as directed by the Municipal Board.

9. Section 28 of the said Act is amended by adding thereto the following subsection:

Approval
of Minister

R.S.O. 1980,
c. 302

(7a) Where the council of the municipality proposes to exercise any power or authority under subsection (6) or (7) that would be prohibited under subsection 112 (1) of the *Municipal Act*, the Minister may approve the exercise of such power or authority in order that the exception provided for in subsection 112 (2) of the *Municipal Act* will apply.

10.—(1) Section 33 of the said Act is amended by adding thereto the following subsection:

Registration
of notice

(7a) Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies.

(2) Subsection 33 (10) of the said Act is repealed and the following substituted therefor:

Application
to council for
relief from
conditions of
demolition
permit

(10) Where a condition has been imposed under subsection (7) and the holder of the demolition permit considers that it is not possible to complete the new building within the time specified in the permit or where the holder of the permit is of

the opinion that the construction of the new building has become not feasible on economic or other grounds, he or she may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

(10a) Despite subsection (10), the council may, at any time, extend the date specified in that subsection for the making of an application for relief from the conditions on which the permit was issued.

Extension
of time

11.—(1) Subsections 34 (12) and (13) of the said Act are repealed and the following substituted therefor:

(12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the council shall ensure that sufficient information is made available to enable the public to understand generally the zoning proposal that is being considered by the council, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed.

Information
and public
meeting

(13) The meeting mentioned in subsection (12) shall be held not sooner than twenty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the zoning proposal.

Time for
meeting,
etc.

(2) Subsection 34 (15) of the said Act is repealed and the following substituted therefor:

(15) The council shall forward to such boards, commissions, authorities or other agencies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal.

Information
to agencies,
etc.

(15a) Where a board, commission, authority or other agency receives information under subsection (15), such board, commission, authority or agency may in writing notify the clerk of the municipality at any time before the expiry of

Extension
of time for
submission
of comments

the twenty-day period mentioned in subsection (15) that a further period of time is required to submit comments in respect of the zoning proposal and where notice is so given, a by-law implementing the proposal may not be passed until either the comments have been received by the council or thirty days have elapsed from the date that the information was forwarded under subsection (15), whichever first occurs.

(3) Subsections 34 (17) and (18) of the said Act are repealed and the following substituted therefor:

Notice of
passing of
by-law

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the clerk of the municipality shall give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (18).

Appeal to
O.M.B.

(18) Any person, including the Minister or agency, may, not later than the twentieth day after the day that the giving of written notice as required by subsection (17) is completed, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When giving
of notice
deemed
completed

(18a) For the purposes of subsection (18), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by publication in a newspaper, on the day that such publication occurs;
- (b) where notice is given by personal service, on the day that the serving of all required notices is completed; and
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(4) Subsections 34 (22), (23), (24) and (25) of the said Act are repealed and the following substituted therefor:

Hearing and
notice
thereof

(22) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

(5) Subsection 34 (28) of the said Act is amended by striking out "adversely" in the third line and in the eighth line.

12. Subsection 35 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1). Condition

13. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development. Condition

14. Clause 40 (8) (a) of the said Act is amended by adding thereto the following paragraph:

4. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, grading or alteration in elevation or contour of the land in relation to the elevation of the highway and provision for the disposal of storm and surface water from the land.

15. Subsection 41 (4) of the said Act is repealed and the following substituted therefor:

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. Official
plan
requirement

16.—(1) Subsection 44 (10) of the said Act is amended by striking out “by mail” in the second line.

(2) Subsection 44 (12) of the said Act is amended by striking out “serving personally on or sending by registered mail to” in the fourth and fifth lines and inserting in lieu thereof “filing with”.

(3) Subsection 44 (13) of the said Act is amended by striking out “served or sent to him” in the second line and inserting in lieu thereof “filed”.

17. Subsection 46 (15) of the said Act is amended by striking out “adversely” in the fourth line.

18. Subsection 49 (1) of the said Act is amended by striking out “section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53” in the twenty-ninth, thirtieth and thirty-first lines and inserting in lieu thereof “subsections 52 (1), (2), (17), (18), (19), (21) and (22) to the Minister includes a delegate of the Minister, as provided for in sections 4 and 54, and a reference herein and in section 52 to a council includes a delegate of a council, as provided for in sections 5 and 53”.

19.—(1) Subsection 52 (7) of the said Act is amended by inserting after “sent” in the second line “either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents”.

(2) Subsection 52 (20) of the said Act is amended by adding at the end thereof “but where there is an appeal under subsection (7) or (8), or a referral under subsection (13) or (14), the application for consent shall not be deemed to be refused for failure to fulfill the conditions until the expiry of a period of one year from the date of the order of the Municipal Board issued in respect of the appeal or referral”.

20. Subsection 56 (1) of the said Act is repealed and the following substituted therefor:

Effect of
contravention
of s. 49, etc.

(1) The Minister may by order in respect of land described in the order provide that the contravention of section 49 or a predecessor thereof or of a by-law passed under a predecessor of section 49 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

21. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor:

Tariff
of fees

(1) The council of a municipality, by by-law, and a planning board, by resolution, may prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anti-

pated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Reduction
or waiver
of fees

22. Clause 69 (d) of the said Act is repealed.

23.—(1) This Act, except sections 1, 2 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 2 and 11 come into force on the 1st day of May, 1987.

Idem

24. The short title of this Act is the *Planning Amendment Act, 1987*.

Short title

Bill 209

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed amendment makes the clerk of each area municipality responsible for certifying and forwarding to the clerk of the Metropolitan Council the name of each person from that area municipality who has been elected or appointed to the Metropolitan Council.

SECTION 2. Subsection 21 (3) of the Act is repealed as it is now dealt with under the *Municipal Conflict of Interest Act, 1983*.

SECTION 3. The proposed amendment vests in the Metropolitan Corporation the title to the original roads in the metropolitan road system established by by-law of the Metropolitan Council in 1953.

SECTION 4. The proposed amendment corrects an incorrect cross-reference to the *Education Act*.

SECTIONS 5, 6, 7 and 8. These proposed amendments relate to the powers and duties of the Metropolitan Toronto Library Board. The *Public Libraries Act, 1984* repealed the former *Public Libraries Act* and the powers of the Metropolitan Toronto Library Board were not included in the new Act.

SECTION 9. The proposed section would transfer certain provincially-owned lands in the Town of Vaughan and the City of Brampton to the City of Etobicoke to accommodate the re-alignment of a road.

SECTION 10. This amendment repeals a provision made redundant by the repeal of the *Juvenile Delinquents Act (Canada)*.

SECTION 11. The proposed amendment provides that fines and penalties for contraventions of area municipal by-laws belong to that municipality if the prosecution has been initiated by area officials.

SECTION 12. The proposed amendments would remove the ten-year limitation on the right to sell refreshments and liquor in metropolitan parks.

SECTION 13. The proposed amendment to subsection 245 (1) would make section 112 of the *Municipal Act* (which prohibit councils from assisting business ventures) applicable to the Metropolitan Council.

The proposed subsection 245 (6a) would give the Metropolitan Council the power to appoint regional fire co-ordinators.

Bill 209**1987**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 (3) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Metropolitan Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Metropolitan Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Metropolitan Corporation has received such a certificate in respect of that person.

Certificate of
qualification

2. Subsection 21 (3) of the said Act is repealed.

3. Section 70 of the said Act is amended by adding thereto the following subsection:

(4a) The soil and freehold of all roads designated to be assumed as Metropolitan roads in a by-law passed under subsection (1) and approved by the Lieutenant Governor in Council under subsection (4) are deemed to have vested in the Metropolitan Corporation on the 1st day of January, 1954.

Deemed
vesting
of
certain
roads

4. Subclause 127 (1) (g) (v) of the said Act is amended by striking out "paragraph 33" in the sixth line and inserting in lieu thereof "paragraph 34".

5. Section 147 of the said Act is amended by adding thereto the following clause:

- (c) “Minister” means the Minister of Citizenship and Culture.

6.—(1) Subsection 148 (1) of the said Act is amended by striking out “The regional library board, which is a corporation, under the name of” in the first and second lines and inserting in lieu thereof “The Corporation known as the”.

(2) Subsection 148 (4) of the said Act is repealed.

(3) Subsection 148 (7) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 57, section 44, is repealed.

7. Section 149 of the said Act is amended by adding thereto the following subsection:

J. Ross
Robertson
Collection

(9) The Library Board has, and since the 23rd day of August, 1977 shall be deemed to have had, the power to maintain the personal property known as the J. Ross Robertson Collection in such building of the Library Board as the Library Board considers appropriate.

8. Part IX of the said Act is amended by adding thereto the following sections:

Primary
functions
of
Library
Board

149a.—(1) The primary functions of the Library Board shall be, in co-operation with the area and other library boards,

- (a) to provide a reference and research service that reflects the metropolitan area’s unique needs; and
- (b) to supplement the public services provided by the area boards,

and for the purposes of clause (b), and for the purposes of provision by the Library Board of library resources and services to the Ontario library community, the Library Board shall be deemed to be a special library service board within the meaning of section 40 of the *Public Libraries Act, 1984*, but subsection 42 (2) of that Act shall not apply to the Library Board.

1984, c. 57

Grants

(2) The Minister may make grants to the Library Board under subsection 40 (1) of the *Public Libraries Act, 1984* for the purposes of the function described in clauses (1) (a) and (b) and for any other resources and services specified by the Minister to be provided by the Library Board in its capacity as a special library service board.

(3) The Library Board,

Powers and
duties of
Library
Board

- (a) shall maintain a comprehensive collection of books, periodicals, films and other material for the purposes of clause (1) (a);
- (b) may operate a book-information service and an inter-library book-loan service for its own collections and those of the area boards;
- (c) may operate a circulating service for any part of its collections; and
- (d) may provide such other services as it considers necessary for a comprehensive and efficient library service within the Metropolitan Area.

149b.—(1) Clauses 10 (1) (a), (b) and (d), sections 11, 12, 13, 15, 16, 17 and 18, clauses 20 (b) to (h), sections 22, 23 and 28, subsection 35 (1) and section 37 of the *Public Libraries Act, 1984* apply with necessary modifications to the Library Board.

Application
of
1984, c. 57

(2) For the purposes of clause 10 (1) (d) of the *Public Libraries Act, 1984*, any employee of any of the appointing bodies referred to in subsection 148 (1) shall be deemed to be an employee of the Metropolitan Corporation.

Idem

(3) For the purposes of clause 13 (d) of the *Public Libraries Act, 1984*, the reference therein to clause 10 (1) (c) shall be deemed to be a reference to the membership and residential requirements of clauses 148 (1) (a), (c), (d) and (e) of this Act.

Idem

(4) For the purposes of subsection 22 (1) of the *Public Libraries Act, 1984*, the Metropolitan Council shall be deemed to be the sole appointing council.

Idem

9. Section 150 of the said Act is amended by adding thereto the following subsection:

(2a) On the 1st day of January, 1987,

Portions of
Brampton
and
Vaughan
annexed to
Etobicoke

- (a) that portion of the City of Brampton described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the Land Registry Office for the Registry Division of Peel (No. 43) as Plan 43R-10527; and

- (b) that portion of the Town of Vaughan described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2 and 3 on a plan deposited in the Land Registry Office for the Registry Division of York Region (No. 65) as 65R-4820, Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the said Land Registry Office as 65R-4821, Parts 1 and 2 on a plan deposited in the said Land Registry Office as 65R-5681 and Parts 1, 2, 3, 4, 5, 6, 7, 8 and 11 on a plan deposited in the said Land Registry Office as 65R-8430.

10. Section 166 of the said Act is repealed.

11. Section 186 of the said Act is repealed and the following substituted therefor:

Fines and
penalties

186.—(1) Subject to subsection (2), the fines and penalties imposed for a contravention of a by-law of an area municipality where its employees or agents initiate a prosecution in accordance with the *Provincial Offences Act* belong to that area municipality.

R.S.O. 1980,
c. 400

Idem

(2) The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation.

12.—(1) Subsection 206 (2) of the said Act is repealed and the following substituted therefor:

Sale of
liquor in
parks

R.S.O. 1980,
cc. 80, 244

(2) In addition to the powers that may be exercised under subsection (1), the Metropolitan Council has power, subject to the *Community Recreation Centres Act*, to let, for such period as it considers advisable, the right to sell refreshments and, subject to the *Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within the metropolitan parks under such regulations as the Metropolitan Council may prescribe.

(2) Clause 206 (5) (a) of the said Act is repealed and the following substituted therefor:

- (a) exercise all or any of the powers conferred on it under subsections (1) and (2) in respect of such lands.

13.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “106” in the second line “112”.

(2) Section 245 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 17, is further amended by adding thereto the following subsection:

(6a) The Metropolitan Corporation shall appoint a metropolitan fire co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the Metropolitan Area, and the Metropolitan Corporation is authorized to expend such sums as it considers necessary to implement the plan and program.

Metropolitan
fire
co-ordinator

14.—(1) This Act, except sections 9 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 9 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Section 11 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

15. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1987*.

Short title

Bill 210

An Act to provide an Incentive to Ontario Employees of Small and Medium Sized Corporations to Purchase Newly Issued Shares of their Employer Corporation

The Hon. R. Nixon
Minister of Revenue



1st Reading February 12th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to implement the proposal contained in the Treasurer's Budget of May 13th, 1986, to establish an incentive program to encourage employees of small and medium sized corporations to purchase newly-issued shares of their employer. The principal features of the Bill are as follows:

1. Corporations incorporated in Canada which pay at least 25 per cent of their salaries and wages in Ontario and whose gross revenue or total assets together with the gross revenue or total assets of associated corporations, does not exceed \$50 million in the previous taxation year may apply to register an employee share ownership plan.
2. Corporations otherwise eligible will continue to be eligible until their gross revenue and their total assets, together with the total assets and gross revenue of associated corporations, both exceed \$75 million.
3. The mandatory provisions to be contained in such a plan include the offering of newly-issued voting shares to all eligible employees, a method of valuation that applies to all common shares of the employer corporation, the provision of terms for the purchase, sale, transfer or redemption of those shares, the provision of financial information and advice on the *Securities Act* to employees, and the appointment of an independent administrator for the plan who will retain for two years the shares purchased by the employee and will retain out of the proceeds of any sale in that two-year period amounts to be repaid to the Treasurer with respect to grants previously paid to the employee.
4. An annual grant of the lesser of \$300 or 15 per cent of the cost of the shares purchased is available to eligible employees.
5. Full-time or part-time employees who are Ontario residents and who have worked for their employer for at least six months may apply for the grant after they purchase and fully pay for the newly-issued shares unless the employee already owns or the employee is related to any person who already owns 10 per cent or more of any class of shares in the employer corporation.
6. The purchase of the shares must result in new capital being paid to the employer corporation and no grant will be paid where an employee uses the proceeds from the sale of the previously-owned shares to purchase new shares.
7. An eligible corporation may apply for a grant equal to the lesser of \$10,000 and one-third of the prescribed expenditures incurred by the corporation in establishing an employee share ownership plan.
8. An employee group may apply for a grant equal to the lesser of \$5,000 and one-half of the prescribed expenditures incurred by the employees in negotiating, evaluating and implementing the employee share ownership plan.
9. Improperly paid grants may be recovered by the Minister through court action.
10. Administrative provisions relating to audits and requests for information, offences and the keeping of adequate records are similar to those contained in the *Corporations Tax Act*; provisions relating to revocations of employee share ownership plans, the filing of objections and applications to the Supreme Court are similar to those contained in the *Small Business Development Corporations Act*.

Bill 210**1987**

**An Act to provide an Incentive to Ontario Employees
of Small and Medium Sized Corporations
to Purchase Newly Issued Shares
of their Employer Corporation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“administrator” means an administrator under an escrow agreement;

“associated corporations” means corporations that are associated corporations under section 256 of the *Income Tax Act* (Canada) or corporations that would be associated corporations under that section if the corporations had been incorporated in Canada;

R.S.C. 1952,
c. 148

“eligible corporation” means a corporation to which a certificate of eligibility has been issued under section 7;

“eligible employee” means an eligible employee referred to in section 11;

“employee” means an individual who is employed by an eligible corporation on a continuing basis for at least fourteen hours per week;

“employee group” means those employees who have been certified under subsection 4 (4);

“employee share” means a share issued by an eligible corporation that includes the right,

- (a) to vote at all meetings of shareholders, and
- (b) to receive the remaining property of the corporation upon dissolution;

“employee share ownership plan” means an arrangement whereby eligible employees may acquire employee shares in an eligible corporation;

“employee share purchase agreement” means an agreement entered into by an eligible corporation and its employees for the purchase of employee shares by eligible employees containing the requirements set out in subsection 2 (1);

“escrow agreement” means an agreement entered into by an eligible corporation, an administrator and an eligible employee containing the provisions required under subsection 2 (2);

“Minister” means the Minister of Revenue;

“person” includes an employee, an employee group, a corporation and an administrator;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

R.S.C. 1952,
c. 148

“specified shareholder of the eligible corporation” means a person who is a specified shareholder of the corporation within the meaning of subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of that Act and any reference to a taxpayer in the definition under that Act shall be read as referring to an employee under this Act;

“taxation year”, in respect of a corporation, means a taxation year of the corporation for the purposes of the *Income Tax Act* (Canada), whether or not the corporation is subject to tax under that Act or is resident in Canada for the purposes of that Act.

Provisions
of employee
share
purchase
agreement

2.—(1) An employee share purchase agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

1. The employee shares to be purchased in accordance with the agreement shall be offered for purchase to all eligible employees.
2. A method of valuing such employee shares shall be described which shall apply to all common shares and employee shares issued by the eligible corporation.

3. A subscription price for the employee shares shall be specified and shall comply with the method of valuing the shares.
4. The terms and conditions for the purchase, sale, redemption and transfer, as applicable, of the employee shares shall be specified.
5. The employee shares shall be issued to, and be recorded on the share register in the name of, the eligible employee to be held in escrow by the administrator under the escrow agreement.
6. The eligible corporation shall provide to the eligible employees all financial information necessary to fully inform such employees in respect of the purchase, sale, transfer or redemption of employee shares.
7. The eligible corporation shall issue to the administrator an investment confirmation certificate in the prescribed form in respect of the purchase of employee shares.
8. The eligible corporation shall comply with all the provisions of the *Securities Act*, including all notice provisions applicable to the issuance, sale or transfer of shares.
9. The eligible corporation shall advise the eligible employees of the provisions of the *Securities Act* applying to the sale or transfer of shares and applying to insider trading.

R.S.O. 1980,
c. 466

(2) An escrow agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

Provisions
of escrow
agreement

1. All employee shares purchased by an eligible employee shall be held in escrow by the administrator for a period of two years from the date of purchase, or until sold, whichever is the earlier.
2. The administrator shall be a person who is independent of and is not subject to the direction of the eligible corporation or of any eligible employee.
3. The administrator shall deliver to the eligible employee the investment confirmation certificate

issued by the eligible corporation in respect of the employee shares.

4. The administrator shall maintain records of employee shares purchased, sold, transferred or redeemed, in a form acceptable to the Minister and provide to each eligible employee a report of his or her employee shares purchased, sold, transferred or redeemed.
5. All proceeds receivable by an eligible employee on the sale, transfer or redemption of the employee shares held in escrow shall be paid to the administrator.
6. The administrator shall withhold from proceeds received on a sale, transfer or redemption of employee shares paid under paragraph 5 an amount equal to lesser of the grant paid under section 12 and the amount determined by prescribed formula, and shall remit such amount to the Treasurer of Ontario.
7. The administrator shall file an annual return with the Minister in the manner, at the time and in the form prescribed.

Eligibility
to register
employee
share
ownership
plan

3.—(1) No corporation is eligible to register an employee share ownership plan under this Act unless,

- (a) the corporation is incorporated in Canada;
- (b) the aggregate of all wages and salaries paid in the last taxation year of the corporation that ends before the date of application under subsection 5 (1) to employees of permanent establishments of the corporation in Ontario for the purposes of the *Corporations Tax Act* is not less than 25 per cent of all wages and salaries paid in the year by the corporation;
- (c) either its gross revenue, together with the gross revenue of all associated corporations, or its total assets, together with the total assets of all associated corporations, in the last taxation year ending prior to the date of application under subsection 5 (1) does not exceed \$50,000,000 or such other amount as is prescribed.

R.S.O. 1980,
c. 97

(2) Subject to subsections (3) and (4), for the purposes of subsection (1) and section 10,

Calculation
of gross
revenue
and total
assets

(a) the gross revenue of a corporation in a taxation year is the amount equal to the product of,

(i) the gross revenue of the corporation as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the ratio of 365 to the number of days in the taxation year; and

(b) the total assets of a corporation in a taxation year is the amount equal to the sum of,

(i) the total assets as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the amount by which the value of any asset of the corporation has been written down and deducted from its income or undivided profits where such amount is not deductible in the calculation of its taxable income for the current and all prior taxation years under Part I of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(3) For the purposes of this section and section 10,

Idem,
associated
corporations

(a) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the gross revenue of the corporation for the taxation year is the amount by which,

(i) the sum of,

(A) the gross revenue of the corporation determined under clause (2) (a), and

(B) the aggregate of all amounts, each of which is the gross revenue of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (a),

exceeds,

- (ii) the aggregate of any amounts included in the gross revenue of the corporation or an associated corporation attributable to transactions between the corporations; and
- (b) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the total assets of the corporation for the taxation year is the amount by which,
- (i) the sum of,
 - (A) the total assets of the corporation determined under clause (2) (b), and
 - (B) the aggregate of all amounts, each of which is the amount of the total assets of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (b),

exceeds,

- (ii) the aggregate of,
 - (A) the amounts, if any, included in the total assets of the corporation under subclause (i), representing debts owed at the end of the taxation year to the corporation by an associated corporation and to an associated corporation by the corporation, and
 - (B) the cost to the corporation of any shares of an associated corporation beneficially owned by the corporation at the end of the taxation year and the cost to an associated corporation of any shares of the corporation beneficially owned by the associated corporation at the end of its taxation year.

Idem,
corporations
in
partnership

(4) For the purposes of this section and section 10, a corporation that is a member of a partnership shall include in its gross revenue and in its total assets for a taxation year the percentage of gross revenue and the percentage of the total

assets as disclosed in the financial statements of the partnership for the fiscal period ending in that taxation year prepared in accordance with generally accepted accounting principles that represents the corporation's participation in the profits of the partnership during the fiscal period of the partnership.

4.—(1) Where a corporation intends to deliver an application to register an employee share ownership plan, the corporation shall forward to the Minister, in the prescribed manner, copies of the proposed employee share purchase agreement, the proposed escrow agreement and any other material prescribed to be submitted for review by the Minister.

Where corporation proposes to apply to register plan

(2) The Minister shall forthwith review the proposed agreements and other materials submitted under subsection (1) and advise the corporation whether the agreements and other materials comply with this Act.

Review by Minister

(3) Where employees of the corporation referred to in subsection (1) wish to retain the services of one or more persons to assist the employees in the negotiation, evaluation and implementation of an employee share ownership plan, the employees may make an application in the prescribed form to be certified as an employee group under this Act.

Application for certification as employee group

(4) The Minister shall consider the application made under subsection (3) and may certify those employees as an employee group for the purposes of section 14.

Certification by Minister

(5) Where the Minister has certified employees as an employee group under subsection (4), no further applications may be made under subsection (3).

One employee group only

5.—(1) A corporation may apply to have an employee share ownership plan registered under this Act by delivering to the Minister an application in the prescribed form.

Application for registration of plan

(2) The application shall be accompanied by,

Material to accompany application

- (a) the corporation's financial statements for its last taxation year ending prior to the date of application under subsection (1);
- (b) a certified copy of the corporation's articles of incorporation and any amendments thereto; and
- (c) a true copy of the employee share purchase agreement, the escrow agreement and any other material prescribed to be submitted with the application.

Disentitle-
ment to
registration
of plan

6. A corporation is not entitled to have its employee share ownership plan registered under subsection 7 (1) if,

- (a) the employee share purchase agreement does not comply with subsection 2 (1);
- (b) the escrow agreement does not comply with subsection 2 (2);
- (c) the corporation fails to comply with section 3 or 5; or
- (d) the corporation fails to file any material required by this Act or the regulations.

Registration
of plan and
certificate of
eligibility

7.—(1) Where a corporation satisfies the requirements of this Act, the Minister shall register the corporation's employee share ownership plan and issue a certificate of eligibility in the form prescribed by the Minister.

Register
open
to public
inspection

(2) The Minister shall maintain a register of those eligible corporations who have registered an employee share ownership plan under this Act and the register shall be open for public inspection during normal business hours.

Amendments

8.—(1) Where an eligible corporation proposes to amend its employee share purchase agreement or its escrow agreement or any other prescribed material, it shall forthwith advise the Minister.

Approval,
variation or
rejection by
Minister

(2) Upon receipt of any proposal under subsection (1), the Minister shall forthwith consider such proposal and may approve, vary or reject the proposal, subject to section 17.

Returns

9.—(1) Within 180 days after the end of each taxation year ending after the date of registration under subsection 7 (1), every eligible corporation shall prepare and file with the Minister a return in the prescribed form setting out the information required in such return.

Extension
of time

(2) The Minister may, in his or her discretion, enlarge the time for filing the return required under this section.

Revocation
of
registration
or refusal
to pay grant

10. Subject to section 17, the Minister may revoke the registration of the employee share ownership plan of an eligible corporation or refuse to pay a grant under section 12 where,

- (a) the gross revenue of the eligible corporation, together with the gross revenue of all associated

corporations calculated in accordance with section 3, exceeds \$75,000,000, or such other amount as is prescribed, in a taxation year, and the total assets, together with the total assets of all associated corporations calculated in accordance with section 3, also exceed \$75,000,000, or such other amount as is prescribed, in the same taxation year;

- (b) the eligible corporation ceases to comply with clause 3 (1) (b);
- (c) the eligible corporation, its officers or directors or its shareholders have failed to comply with any provisions of this Act or the regulations or are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant under this Act to which they would not otherwise be entitled;
- (d) the eligible corporation proceeds with any amendments not approved by the Minister under subsection 8 (2); or
- (e) the eligible corporation requests deregistration of its employee share ownership plan.

11.—(1) Where an employee is an eligible employee under subsection (2) and complies with the provisions of this Act, the Minister may make a grant under section 12 to the eligible employee upon application therefor.

Grant to
eligible
employee

(2) An employee shall be an eligible employee if,

Where
employee
is eligible
employee

- (a) the employee was resident in Ontario on the last day of the previous calendar year and on the date the eligible corporation issues employee shares to the employee; and
- (b) the employee has been employed by the eligible corporation during the six months prior to the issue of employee shares to him or her under clause (3) (b).

(3) No grant shall be paid unless,

Condition of
payment
of grant

- (a) the eligible employee has applied to the eligible corporation to purchase employee shares of the eligible corporation in accordance with the employee share purchase agreement;

- (b) the eligible corporation has issued such employee shares in the name of the eligible employee and the shares are held in escrow by the administrator;
- (c) the eligible employee has fully paid for the employee shares; and
- (d) the employee shares are newly issued by the eligible corporation.

Idem

(4) No grant shall be paid where,

- (a) the purchaser of any employee shares is a specified shareholder of the eligible corporation;
- (b) the purchase of any employee share entitles the holder thereof to claim a credit against or deduction from income or income tax under the *Income Tax Act* (Canada);
- (c) the purchase of any employee share entitles the holder thereof to apply for a grant under the *Small Business Development Corporations Act*; or
- (d) the proceeds from the purchase of any employee share will be used to qualify the holder thereof for a grant under the *Ontario Mineral Exploration Program Act*.

R.S.C. 1952,
c. 148R.S.O. 1980,
c. 475R.S.O. 1980,
c. 346Grants to
eligible
employees

12.—(1) An eligible employee may make an application in the prescribed form for a grant and, subject to section 11 and this section, the Minister may pay a grant equal to the lesser of,

- (a) \$300; and
- (b) 15 per cent of the cost to the eligible employee of employee shares purchased by the eligible employee from the eligible corporation in the calendar year.

Time of
application

(2) No grant shall be paid under subsection (1) unless application therefor is received by the Minister within three years of the date of issue of the employee shares.

Material to
accompany
application

(3) An application under subsection (1) shall be accompanied by,

- (a) an investment confirmation certificate in the prescribed form signed by the secretary and one other authorized signing officer of the eligible corporation

that issued the employee shares in respect of which an application for a grant is being made; and

(b) any additional prescribed material.

(4) Where an applicant for a grant under subsection (1) has previously held and disposed of,

Calculation of cost where shares previously held disposed of, etc.

(a) common shares of the eligible corporation within six months prior to the purchase of the employee shares from the eligible corporation; or

(b) employee shares of the eligible corporation with respect to which a grant was paid under this Act which has not been repaid under subsection 15 (1),

the cost to the applicant of the employee shares for the purposes of clause (1) (b) shall be deemed to be the amount by which the cost of the employee shares determined without reference to this subsection exceeds the aggregate of the net proceeds of disposition received or receivable by the applicant on the disposition of all shares referred to in clause (a) or (b).

13.—(1) An eligible corporation may make an application to the Minister for a grant and the Minister may pay to the corporation a grant equal to the lesser of,

Grants to eligible corporations

(a) \$10,000; and

(b) one-third of the outlays and expenses as prescribed incurred by the eligible corporation to establish an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issue to the corporation of the certificate of eligibility under subsection 7 (1).

Time of application

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the eligible corporation under this section.

One grant only

14.—(1) An employee group may make an application to the Minister for a grant and the Minister may pay to the employee group a grant equal to the lesser of,

Grants to employee groups

(a) \$5,000; and

(b) one-half of the outlays and expenses as prescribed incurred in advising employees in the negotiation,

evaluation and implementation of an employee share ownership plan.

Time of application

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issuance of the certificate of eligibility to the eligible corporation under subsection 7 (1).

One grant only

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the employee group under this section.

Repayment of grant when shares disposed of

15.—(1) Subject to section 17 and other than in the case of an involuntary disposition prescribed, an eligible employee who disposes of employee shares in respect of which a grant was paid under section 12 within two years from the date of purchase of the employee shares shall repay to the Minister the lesser of,

(a) an amount equal to the grant paid in respect of those employee shares to such eligible employee; and

(b) the amount determined by the prescribed formula.

Amounts paid to Treasurer

(2) All amounts payable to the Minister under subsection (1) shall be retained by the administrator from the proceeds of sale of the employee shares and shall be remitted to the Treasurer of Ontario at the time and in the manner prescribed.

Repayment of grants to which not entitled

16.—(1) Subject to section 17, where a person receives or obtains a grant under this Act to which that person was not entitled or receives or obtains the payment of any amount in excess of the amount of grant to which that person was entitled, the amount of the grant or excess payment, as the case may be, shall be deemed to be a debt due to the Crown and shall be paid forthwith by the person to the Minister.

Demand for repayment

(2) Where the Minister determines that any amount is repayable under subsection (1), the Minister shall, when requesting repayment thereof, serve on the person a demand for repayment together with the reasons therefor.

Recovery

(3) Where a person liable to make a payment under subsection (1) fails to make the payment to the Minister, the amount of the debt may be recovered in any court of competent jurisdiction in proceedings commenced by the Minister at any time.

(4) Notwithstanding subsection (1), if owing to special circumstances it is deemed inequitable to demand the whole amount due under this section, the Minister may accept such lesser amount as he or she considers proper.

Acceptance
of lesser
amount

17.—(1) Where the Minister proposes,

Notice of
proposal
by Minister

- (a) to refuse to certify an employee group under subsection 4 (4);
- (b) to refuse to register an employee share ownership plan under subsection 7 (1);
- (c) to vary or reject an amendment under subsection 8 (2);
- (d) to revoke registration under section 10;
- (e) to refuse to make a grant under subsection 12 (1), 13 (1) or 14 (1); or
- (f) to require repayment under subsection 15 (1),

the Minister shall serve notice of the proposal, together with written reasons therefor, on the applicant, registrant, corporation, employee group, eligible employee or other person, as the case may be.

(2) If the Minister fails to register the employee share ownership plan of a corporation under section 7 within six months of application therefor under subsection 5 (1), the Minister shall be deemed to have refused to register the employee share ownership plan for the purposes of clause (1) (b).

Deemed
refusal of
registration

(3) Where a person objects to a proposal under subsection (1) or a demand for repayment under subsection 16 (2) that is served on that person, the person may, within sixty days from the day of mailing of the proposal or demand or from the date upon which the Minister has been deemed to have refused registration under subsection (2), serve on the Minister a notice of objection in the prescribed form setting out the reason for the objection and all relevant facts.

Notice of
objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection that was not served in the manner required.

Service
of notice

Where no
notice served

(5) Where no notice is served under subsection (4), the Minister may proceed to carry out the proposal under subsection (1) or recover the debt stated in the demand under subsection 16 (2).

Reconsider-
ation by
Minister

(6) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the proposal or demand and may confirm, vary or abandon such proposal or demand, and the Minister shall thereupon notify the person making the objection of such action by registered mail.

Where no
appeal

(7) A decision of the Minister under subsection (6) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Surrender of
certificate of
eligibility

(8) Where no notice was served under subsection (4) or where the Minister's proposal was confirmed under subsection (6), subject to section 18, the eligible corporation shall surrender the certificate of eligibility issued to it under subsection 7 (1).

Application
to judge
where facts
undisputed

18. In any dispute over a decision or action of the Minister under subsection 17 (6), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to a judge of the Supreme Court to have the issue in dispute determined and, if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Communi-
cation of
information

19.—(1) Except as provided in subsection (2), no person employed in the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception

(2) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing,

return or other document obtained by the Minister or on his or her behalf for the purposes of this Act to be given to,

- (a) any official or authorized person employed by the Government of Ontario in the administration and enforcement of this Act;
- (b) the Minister of National Revenue of the Government of Canada or any official or employee employed under that Minister;
- (c) the Treasurer of Ontario and the Minister of Industry, Trade and Technology of the Government of Ontario and any official or employee employed under the Treasurer or Minister; or
- (d) the Ontario Securities Commission or any official employed by the Commission.

20.—(1) Every eligible corporation, administrator and employee group under this Act shall keep such records as may be prescribed by the Minister at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or place of business in Ontario, as the case may be, or at such other place of business as is designated by the Minister, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Records

R.S.O. 1980,
c. 97

(2) Where an eligible corporation, administrator or employee group has failed to keep adequate records for the purposes of this Act, the Minister may require the eligible corporation, administrator or employee group to keep such records as may be so required.

Idem

(3) Every eligible corporation, administrator or employee group required by this section to keep records shall, until permission for their disposal is given by the Minister, retain every such record and every account or voucher necessary to verify the information in any such record.

Retention
of records

21.—(1) Any person thereunto authorized by the Minister for any purpose relating to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or records are or should be kept pursuant to this Act, and,

Investi-
gations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other docu-

ment that relates or may relate to the information that is or should be in the books or records or to the amount of any grant paid or payable under this Act;

- (b) examine any property, process or matter an examination of which may, in his or her opinion, assist such person in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books and records or in such application, or the amount of any grant paid or payable under this Act; and
- (c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require such person to attend at the premises or place with him or her.

Information

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any eligible corporation or from the president, manager, secretary or any director, agent or representative thereof, or from any other person,

- (a) any information or additional information or a return under section 9 or other return required by the regulations; or
- (b) production, or production on oath, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, by registered letter or a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by any agent or officer thereof, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation, or of any agent or officer thereof, for the purpose of determining eligibility or possible eligibility for a grant under this Act, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(4) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had had it been proven in the ordinary way. Copies

(5) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do. Compliance

(6) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations and affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. Administration of oaths

22.—(1) Every person who fails to deliver a return or report as and when required by this Act or the regulations is guilty of an offence and, in addition to any other penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day during which the default continues. Offences

(2) Every person who fails to comply with or contravenes section 20 or 21 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$50 for each day during which the default continues. Idem

23. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporations

24.—(1) Every person who, Offences

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a

return, certificate, statement or answer filed or made as required by or under this Act or the regulations;

- (b) knowingly failed to disclose any information that is required to be disclosed and by reason thereof obtained the payment of a grant under this Act to which he or she was not entitled or to which the person on whose behalf he or she was acting was not entitled;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records required to be maintained under this Act;
- (d) knowingly converted to his or her own use a payment of a grant under this Act to which he or she was not entitled; or
- (e) conspires with any person to commit an offence described in clauses (a) to (d),

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection (1) if he or she did not know that the statement was false or misleading and in the exercise of due diligence could not have known that the statement was false or misleading.

Limitation

25. Proceedings in respect of an offence against this Act may be commenced not later than six years after the time the subject matter of the proceedings arose.

Regulations:
by
Lieutenant
Governor in
Council

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;
- (b) prescribing additional terms and conditions to be included in an employee share purchase agreement and an escrow agreement;

- (c) prescribing any amount that is greater or lesser than the amount set out in clause 3 (1) (c) or 10 (a);
- (d) providing for the forwarding of draft agreements and other materials to the Minister under subsection 4 (1);
- (e) prescribing additional material to be included in an application under sections 5 and 12;
- (f) providing for the annual filing of a return by an administrator;
- (g) prescribing the outlays and expenses referred to in clauses 13 (1) (b) and 14 (1) (b);
- (h) prescribing the circumstances or situations of involuntary dispositions in which an eligible employee will not be required to repay a grant made under section 12 for the purposes of subsection 15 (1);
- (i) prescribing the time and manner of the remitting of amounts withheld by an administrator under subsection 15 (2);
- (j) prescribing the formula to be used in determining the amount of any repayment under clause 15 (1) (b), in lieu of the amount of the repayment referred to in clause 15 (1) (a);
- (k) defining any word or expression in this Act or the regulations that has not already been expressly defined herein;
- (l) providing for the payment of interest on any amount repayable under subsection 15 (1).

(2) The Minister may make regulations,

by Minister

- (a) prescribing any form, return or statement to be made under this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or statement shall be completed and what information it shall contain;
- (b) prescribing, defining or determining anything the Minister is permitted or required by this Act to prescribe, define or determine;

- (c) prescribing for the purposes of this Act and the regulations the records to be maintained by an eligible corporation, an administrator or an eligible group.

may be
retroactive

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Commence-
ment

27. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

28. The short title of this Act is the *Employee Share Ownership Plan Act, 1987*.

Bill 211

An Act to amend the Public Transportation and Highway Improvement Act

The Hon. E. Fulton

Minister of Transportation and Communications



1st Reading February 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The section is rewritten to provide basically that a county council, as a whole, may sit as a county road system committee.

SECTION 2. Section 47 of the Act sets out that payment pertaining to a county road system shall be made on approval of the road committee as certified by the chairman. The provision as rewritten permits the council to approve the payment.

SECTION 3. Subsection 63 (1) of the Act authorizes a county to regulate the activities set out in the clauses. Two new clauses are added. Subsection 63 (2) is rewritten so that the wording corresponds to the added clauses.

SECTION 4. Section 90 of the Act deals with the designation of development roads controlled by towns, villages in a territorial district or townships. The phrase "village in a territorial district" is replaced by "village".

Bill 211

1987

An Act to amend the Public Transportation and Highway Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 45 of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

45.—(1) Where a county road system is established under this Part, the county council shall, County road
system
committee

- (a) act as a committee of the whole; or
- (b) appoint by by-law from three to ten residents of the county, who need not be members of the council, to constitute a committee,

to direct the work to be done on the county road system.

(2) If a committee is constituted under clause (1) (b), the council, subject to subsection (3), may by by-law, Idem

- (a) regulate the term of office, reappointment, removal from office and the filling of any vacancy; and
- (b) assign executive powers considered appropriate for the effective operation of the committee.

(3) A committee constituted under clause (1) (b) shall be set up so that, Staggered
terms

- (a) other than a committee consisting of four members, not less than one-third of the members are appointed to hold office for a term of three years, not less than one-third of the members are appointed to hold office for a term of two years and

the remaining members are appointed to hold office for a term of one year; or

- (b) for a committee consisting of four members, one member is appointed to hold office for a term of three years, one member is appointed to hold office for a term of two years and two members are appointed to hold office for a term of one year,

and thereafter all members shall be appointed for a term of three years.

Re-
appointment

- (4) Every member of the committee is eligible for re-appointment upon the expiry of his or her term of office.

Warden
member

- (5) The warden of the county is *ex officio* a member of the committee and may sit and vote thereon.

2. Section 47 of the said Act is repealed and the following substituted therefor:

Payment,
how
to be made

47. No money shall be disbursed pertaining to the county road system except by the county treasurer on the certificate of the county road superintendent approved by the county council and certified in writing by the warden of the county or by the committee appointed to direct the work to be done on the county road system as certified in writing by the chairman thereof.

3.—(1) Subsection 63 (1) of the said Act is amended by striking out “and” at the end of clause (a) and by adding thereto the following clauses:

- (c) the construction or alteration of any private road, entranceway, gate or other structure or facility that permits access to a road; and
- (d) any change in use of any private road, entranceway, gate or other structure or facility that permits access to a road.

(2) Subsection 63 (2) of the said Act is repealed and the following substituted therefor:

Permits

(2) A by-law passed under this section may provide for the issuing of a permit for any of the acts that may be regulated under this section and may prescribe the form, terms and conditions of the permit and the fees to be paid for it, and may prescribe penalties for contravention of the by-law.

4. Subsection 90 (1) of the said Act is amended by striking out “or village in a territorial district or of a” in the third and fourth lines and inserting in lieu thereof “village or”.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Public Transportation and Highway Improvement Amendment Act, 1987.* Short title

28N
3
56

Bill 212

An Act to amend the Game and Fish Act

Mr. Bernier



1st Reading February 12th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is twofold.

First, it will enshrine in legislation the establishment of a publicly appointed "Fish Advisory Council".

The Council would have the powers to advise the Ministry in its fish management program and would oversee the development and administration of an enhanced fish management program, which follows a statement made by the Minister that "most" of the funds raised through the sale of the new Ontario Resident Fishing licences would be used for such a program.

The amendment will guarantee the anglers of Ontario that these new funds, expected to total around \$10 million, will indeed be spent on fish management.

Second, it will provide for a system of permanent identification numbers for resident hunters by requiring residents to obtain a Resident Hunter Number Card before being issued a licence under the *Game and Fish Act*.

It will put into place the following requirements:

1. To provide hunter identification and proof that licence applicants meet licensing requirements.
2. To reduce the cost of key entry services for all computerized data systems that incorporate hunter identification.
3. To provide a complete, up-to-date mailing list of all licensed hunters for annual harvest surveys.
4. To provide a key link between data systems relating to hunter effort and harvest.
5. To provide enforcement staff with licensing information on individual sportsmen.

Bill 212

1987

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

16a.—(1) In this section, “Council” means the Fish Advisory Council. Definition

(2) There shall be established a Fish Advisory Council, to be composed of no fewer than six and no more than twelve members. Fish
Advisory
Council

(3) The members of the Council shall be appointed by the Lieutenant Governor in Council for such term as the Lieutenant Governor in Council determines and shall be representative of persons from each of the regions of Ontario. Members

(4) The members of the Council shall elect from among its members one person to be presiding officer and another person to be deputy presiding officer. Presiding
officer

(5) The remuneration and expenses of the members of the Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature. Remunera-
tion and
expenses

(6) The Council may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum and the conduct of meetings. Powers of
Council

(7) It is the function of the Council and it has power to advise the Ministry in its fish management program and to oversee the development and administration of an enhanced fish management program. Idem

Annual
report

(8) The Council shall file annually with the Minister a report upon its affairs for the preceding year.

Idem

(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

.

Resident
Hunter
Number Card

36a.—(1) No person shall issue a licence to a resident under this Act unless the resident has applied to the Ministry for and received a Resident Hunter Number Card.

Idem

(2) The Ministry shall issue a Resident Hunter Number Card to every resident who applies therefor as prescribed, who, apart from this section, is eligible to receive a licence under this Act and who,

- (a) has successfully completed a hunter training course approved by the regulations; or
- (b) has previously held a licence under this Act.

2. Section 92 of the said Act is amended by adding thereto the following paragraphs:

55a. governing the issue, form, renewal and replacement of Resident Hunter Number Cards and prescribing their durations and the fees payable therefor;

55b. respecting the establishment and requirements of hunter training courses for the purpose of section 36a and respecting the terms and conditions upon which hunter training courses not given under the authority of this Act shall be approved.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Game and Fish Amendment Act, 1987*.

56

Bill 213

2ND SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 213

*(Chapter 15
Statutes of Ontario, 1987)*

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1987**

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	February 12th, 1987
<i>2nd Reading</i>	February 12th, 1987
<i>3rd Reading</i>	February 12th, 1987
<i>Royal Assent</i>	February 12th, 1987

Bill 213

1987

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1987**

MOST GRACIOUS SOVEREIGN:

Whereas it appears by messages from the Honourable Lincoln Alexander, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1987; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$21,727,271,100 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1986, to the 31st day of March, 1987, as set forth in the Schedule to this Act, and, subject to subsection (2), such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

\$21,727,271,100
granted for
fiscal year
1986-87

(2) Where, in the fiscal year ending the 31st day of March, 1987, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Exception

Accounting
for
expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Supply Act, 1987*.

SCHEDULE

	ESTIMATES	SUPPLEMENTARY ESTIMATES	TOTAL
	\$	\$	\$
Agriculture and Food.....	338,334,000	62,953,300	401,287,300
Attorney General.....	246,337,000	2,007,900	248,344,900
Cabinet Office	6,228,000		6,228,000
Citizenship and Culture	169,920,500	29,536,000	199,456,500
Colleges and Universities.....	1,776,796,800	93,245,000	1,870,041,800
Community and Social Services	2,463,756,900	91,322,200	2,555,079,100
Consumer and Commercial Relations	82,596,400	9,187,500	91,783,900
Correctional Services.....	250,509,200		250,509,200
Education	2,147,286,700	184,085,000	2,331,371,700
Energy	36,250,200		36,250,200
Environment	289,915,100	6,670,000	296,585,100
Financial Institutions.....	19,177,200		19,177,200
Government Services	364,719,100	2,200,000	366,919,100
Health.....	8,008,454,100	188,776,900	8,197,231,000
Housing.....	276,643,800	3,041,600	279,685,400
Industry, Trade and Technology	191,947,200	9,454,000	201,401,200
Intergovernmental Affairs.....	4,817,800		4,817,800
Labour	73,138,300	2,858,900	75,997,200
Management Board	185,233,700		185,233,700
Municipal Affairs	486,962,800	18,714,800	505,677,600
Natural Resources	374,115,400	36,060,000	410,175,400
Northern Development and Mines.....	157,081,400	27,169,000	184,250,400
Office of the Assembly.....	67,251,500	6,677,400	73,928,900
Office of the Chief Election Officer	359,600	22,900	382,500
Office Responsible for Disabled Persons.....	1,418,800		1,418,800
Office of the Lieutenant Governor	382,000		382,000
Office Responsible for Native Affairs.....	1,260,000		1,260,000
Office of the Ombudsman.....	5,261,700	100,000	5,361,700
Office of the Premier	1,449,100		1,449,100
Office of the Provincial Auditor	4,771,200	465,000	5,236,200
Office Responsible for Senior Citizens Affairs	3,286,900		3,286,900
Office Responsible for Women's Issues.....	8,342,000		8,342,000
Revenue	490,898,800		490,898,800
Skills Development.....	347,118,900	34,320,000	381,438,900
Solicitor General	280,709,900		280,709,900
Tourism and Recreation	113,971,300	20,424,300	134,395,600
Transportation and Communications.....	1,403,211,000	41,350,000	1,444,561,000
Treasury and Economics.....	176,715,100		176,715,100
TOTAL	20,856,629,400	870,641,700	21,727,271,100



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